

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - - -

DEARREA KING, Adm., of the)
ESTATE OF TYREE KING,) CASE NO. 2:18CV1060
Plaintiff,) JUDGE EDMUND A. SARGUS, JR
-V-) CHIEF MAG. JUDGE ELIZABETH
THE CITY OF COLUMBUS, et al,) P. DEAVERS
Defendants.)

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CHRISTOPHER M. COOPER, Adm.,)
Of the ESTATE OF DEAUNTE) CASE NO. 2:19CV3105
BELL-McGREW,)
Plaintiff,) JUDGE GEORGE C. SMITH
-V-) CHIEF MAG. JUDGE ELIZABETH
THE CITY OF COLUMBUS, et al,) P. DEAVERS
Defendants.)

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JAMES J. ENGLAND,) CASE NO. 2:19CV1049
Plaintiff,) JUDGE SARAH D. MORRIS
-V-) MAGISTRATE JUDGE KIMBERLY
THE CITY OF COLUMBUS, et al,) A. JOLSON
Defendants.)



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The video teleconference deposition of DEPUTY CHIEF RICHARD BASH, a 30(b)6 witness herein, being called by the Plaintiffs as if upon cross-examination under the statute, and taken before Megan A. Medved, a Notary Public within and for the State of Ohio, pursuant to the agreement of counsel, on Wednesday, December 16th, 2020, at 10:30 a.m., at the Offices of Tackla Court Reporting, LLC, 1020 Ohio Savings Plaza, 1801 East 9th Street, City of Cleveland, County of Cuyahoga, and the State of Ohio.

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P-R-O-C-E-E-D-I-N-G-S

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DEPUTY CHIEF RICHARD BASH, of lawful age, a
witness herein, having been first duly sworn, as
hereinafter certified, deposes and says as follows:

- - - -

CROSS-EXAMINATION OF DEPUTY CHIEF RICHARD BASH
BY MS. GREENE:

Q. Good morning. I'm Jacqueline Greene. I'm one
of the attorneys representing the Plaintiffs in three
cases that you're here today to testify about. Before
we get going, I'll ask you to please state and spell
your name for the record.

A. My name is Richard, R-I-C-H-A-R-D. Last name is
Bash, B-A-S-H.

Q. Okay. Thank you. Now, I'm sure your attorney
has gone over with you the rules of how to handle a
deposition, and I assume you've been deposed before, is
that right?

A. Sadly, that's correct.

Q. So, this is not your first time at the rodeo,
but nonetheless, I'll go through some ground rules
before we get started. First, we are on Zoom. You
understand that you're here to testify today under the
penalty of perjury, right?

1 A. Yes.

2 Q. And as we go forward I ask that we speak one at
3 a time. Please let me finish my questions before you
4 start speaking, or if Theresa objects, please let her
5 finish her objection before you begin your answer.
6 Okay?

7 A. Okay.

8 Q. All right. And I ask that you answer every
9 question orally. Please don't nod or shake your head.
10 We need a clean record for Megan today, so every answer
11 will have to be verbal. Okay?

12 A. Okay.

13 Q. And as we move forward, we are on Zoom, and as
14 we already know this morning there's always the
15 possibilities of tech issues. So, if you have any tech
16 issues as we go forward, if my voice drops out, or
17 whatever it may be, please let us know right away.
18 Okay?

19 A. Okay.

20 Q. And if you answer a question that I've asked
21 you, I'm going to assume that you understood the
22 question. If at any point you need clarification or if
23 you need me to restate the question, or rephrase the
24 question, please let me know. Okay?

25 A. Okay.

1 Q. If you need a break, that's fine. Just go ahead
2 and let us know. I just ask that if I have a pending
3 question that you answer any question that's pending
4 before we take a break. Fair enough?

5 A. Okay.

6 Q. Before we get started, are you affected today by
7 any medical or other issues that might affect your
8 ability to testify accurately or truthfully?

9 A. I am not.

10 Q. Okay. What's your current rank?

11 A. Deputy Chief.

12 Q. And you're a Deputy Chief of the Columbus
13 Division of Police, correct?

14 A. That is correct.

15 Q. And you understand that you're here to testify
16 today in the cases of Cooper v. Columbus, et al; England
17 v. Columbus, et al; and King v. Columbus, et al,
18 correct?

19 A. The only one that I have here is Cooper v.
20 Columbus, et al. Unless it was sent to me separately, I
21 don't have any other ones.

22 Q. Do you understand that you're here today to
23 testify in three separate cases, though?

24 A. I did not know that. I apologize. I guess I
25 just printed out the one. I do understand that now.

1 Q. Okay. So the three cases that I just named
2 you're here today to testify about and they pertain to
3 the police involved shootings of James England, Deaunte
4 Bell-McGrew and Tyree King, correct?

5 A. Correct.

6 MS. GREENE: Let's go off the record
7 for a second.

8 - - - -

9 (Thereupon, an off-the-record discussion was held.)

10 - - - -

11 MS. GREENE: Back on the record.

12 BY MS. GREENE:

13 Q. Okay. Deputy Chief Bash, you're here in your
14 official capacity as a representative of The City of
15 Columbus to testify today, correct?

16 A. Correct.

17 Q. And you understand that you've been designated
18 by the city to provide binding testimony on behalf of
19 the city today, correct?

20 A. Correct.

21 Q. Okay. And you have been designated by the city
22 in each of the three cases to testify in relation to
23 topics named in a Notice Rule of Civil Procedure 30(b)6
24 Depositions.

25 MS. GREENE: And I'll ask Theresa if

1 we could just stipulate on the record to the topics that
2 Deputy Chief Bash is testifying to, so I don't have to
3 go through the notices.

4 MS. DEAN: Yes. That's fine.

5 MS. GREENE: Okay. So, the defense
6 agrees then, that Deputy Chief Bash is here today in
7 Cooper v. Columbus, et al, England v. Columbus, et al,
8 and King v. Columbus, et al, in topics three and four of
9 the notices of 30(b)6 deposition in each of those cases,
10 correct?

11 MS. DEAN: That's correct.

12 MS. GREENE: Thank you.

13 BY MS. GREENE:

14 Q. And these notices have been previously marked in
15 prior depositions in the deposition of Robert Meader, so
16 I won't have you look at them today. But, as we go
17 forward, you understand that the topics that you are
18 here to testify on are the Columbus Division of Police's
19 hiring, discipline, and supervision of Matthew Baase,
20 John Narewski, Bryan Mason, and Keith Abel, correct?

21 A. Correct.

22 Q. And you also understand that you're here to
23 testify about the Columbus Division of Police's
24 psychological evaluations and fitness for duty
25 evaluations of those same police officers, correct?

1 A. Correct.

2 Q. Deputy Chief Bash, what did you do to prepare
3 for this deposition?

4 A. I read the attached documents that were sent to
5 me by Michael Halloran in regards to these complaints.

6 Q. What documents were those?

7 A. So on the first page they are The Notice of
8 Depositions for these three cases. I have a training
9 report for each of these officers. We have involved
10 shooting preliminary progresses, but that wouldn't be
11 applicable to three and four. We have the IAB printout
12 for the officers. We have hiring packages for the
13 officers, such as letters of conditional offer, board
14 evaluations, background investigations, appeals. Those
15 are amongst the plethora that I have. Do you want me to
16 list them all?

17 Q. Yes, please. Thanks.

18 A. So, Cooper v. Columbus Notice of Deposition.
19 England v. Columbus Notice of Deposition. King v.
20 Columbus Notice of Deposition. Training report for
21 Officer Abel. Training status for Officer Abel. IAB
22 history for Officer Abel. Background investigation for
23 Officer Baase. Database and work history of Officer
24 Baase. IAB history of Officer Baase. Performance
25 evaluations for Officer Baase. A background file for

1 Officer Narewski. Database and work history for Officer
2 Narewski. IAB history for Officer Narewski.
3 Performance evaluation for Officer Narewski.

4 I have a letter from a psychologist in regards
5 to Officer Mason. I have preliminary progress for
6 Officer Mason, a police involved shooting. We have the
7 second progress in that police involved shooting, a
8 third progress, a forensic progress and final progress
9 for that police involved shooting. We have also the
10 routing sheet for that police involved shooting, and the
11 Firearms Review Board disposition for that police
12 involved shooting.

13 We have a hiring -- sorry. This is the letter
14 from the psychologist in regards to Officer Mason. IAB
15 printout for Officer Mason. A copy of the routing sheet
16 for use of firearms for Officer Mason. A copy of a
17 routing sheet for a use of firearm for Officer Mason.
18 The offer of employment for Officer Mason. A copy of a
19 routing sheet involving Officers Brumfield and
20 Worthington. A copy of a routing sheet involving a
21 police involved shooting for Officer Mason. The
22 Firearms Review Board disposition for that use of
23 firearm from Officer Brumfield, Mason, and Worthington.
24 A police involved shooting progress involving that same
25 incident with Officers Brumfield, Worthington, and

1 Mason. Preliminary investigation involving those. A
2 forensic summary involving those. A copy of a routing
3 sheet also involving a police involved shooting
4 involving Officer Mason. The disposition from the
5 Firearms Review Board in the police involved shooting
6 involving Officer Mason, and the final summary for the
7 police involved shooting with Officer Mason.

8 I have a routing sheet for a police involved
9 shooting involving Officer Mason. I have another
10 routing sheet for a police involved shooting with
11 Officer Mason. The Firearms Review Board disposition of
12 Officer Mason's police involved shooting. A preliminary
13 summary for a police involved shooting involving Officer
14 Mason. A forensic summary, the final summary of the
15 police involved shooting of Officer Mason. A medical
16 document. I think that's the request for proposal for a
17 preemployment physical. I believe that's just a blank.

18 A copy of Mason's invitation to take the stress
19 test. A special exams document, that appears to be some
20 type of medical document that's redacted. A similar one
21 for Officer Mason. A copy of interrogatory responses in
22 the court case between King and Columbus, et al.
23 Another copy involving Officer Mason of the
24 interrogatories. Personal history questionnaire of
25 Officer Mason. Polygraph summary of Officer Mason. A

1 copy of the removal standards from civil service in
2 place when Officer Mason was hired. A memo to Officer
3 Mason of his removal from the hiring list. A copy of
4 his appeal to be reinstated on the hiring list. A copy
5 of his appeal granted to the hiring list. Background
6 information from Officer Mason. Oral board summary for
7 Officer Mason's hiring. An evaluation from the oral
8 board for Officer Mason. This one is from Sergeant
9 Weekly evaluating Bryan Mason to become a police officer
10 and also another evaluation from Officer Wolfenbogger.
11 His letter of conditional offer from then safety
12 director Mitchel Brown, and a letter about his medical
13 exam and stress test, and an invitation to take the
14 stress test. I believe that's everything that I have.

15 **Q. Okay.**

16 **A. That's a lot.**

17 **Q. It is a lot. You reviewed all of this in**
18 **preparation for your deposition today?**

19 **A. I looked over it all, yes.**

20 **Q. And normally we would be sitting in a conference**
21 **room across the table from each other and you would have**
22 **brought this file with you. In a sense you're bringing**
23 **it with you on your computer today, right?**

24 **A. Sure.**

25 **Q. Let's see here. I guess, in the deposition**

1 notices that you just listed as some of the documents
2 that you reviewed, did you see in the notice where it
3 states that the person designated should produce at
4 least two days before the depositions any and all
5 documents related to the topics for which you're
6 designated to testify?

7 A. Apparently I missed that. I could e-mail these
8 to you, if you would like.

9 Q. That's exactly what I was going to ask you to
10 do, send all of those in an e-mail if you don't mind?

11 A. Sure.

12 MS. DEAN: I've got them.

13 MS. GREENE: That would be great,
14 Theresa, so he doesn't have to worry about it.

15 MS. DEAN: They've all been produced.

16 MS. GREENE: I assumed as much, but
17 it's always best to do a double-check.

18 MS. DEAN: Sure.

19 MS. GREENE: Thank you.

20 BY MS. GREENE:

21 Q. Okay. So, beyond all the documents that we just
22 went through, which were quite numerous, to your
23 knowledge, have all the documents that are relevant to
24 the topics that you're here today to testify on been
25 previously produced to the Plaintiff through your

1 **counsel?**

2 A. To my knowledge, yes.

3 **Q. Okay. And did you do anything to look for any**
4 **other responsive documents in relation to the topics**
5 **that you're here to testify on today before the**
6 **deposition?**

7 A. No.

8 **Q. Okay. You understand that 30(b)6 witnesses do**
9 **have a duty to search for and produce relevant documents**
10 **for the topics that they're designated to testify on,**
11 **correct?**

12 A. Yes.

13 **Q. Okay. How long did you spend reviewing the**
14 **documents that you just listed for me a moment ago?**

15 A. Maybe an hour.

16 **Q. Okay. And did you meet with any attorneys to**
17 **prepare for your deposition today?**

18 A. Not in-person.

19 **Q. Via Zoom?**

20 A. Yes. Zoom.

21 **Q. How long was that meeting or meetings?**

22 A. Maybe an hour.

23 **Q. And did you speak with anybody else other than**
24 **your attorney about today's deposition?**

25 A. About the specifics or about it occurring?

1 **Q. Either.**

2 A. Well, my supervisor knows that I'm being deposed
3 today as do the rest of the executive staff, and so, I
4 don't know. Maybe six or eight people know that I'm
5 being deposed about these cases.

6 **Q. Did you discuss any of the substance of what**
7 **your testimony would be today with those people or**
8 **anybody else?**

9 A. No.

10 **Q. Okay. Can you please give me your educational**
11 **background?**

12 A. I have a bachelor's degree in political science,
13 and a master's degree in management.

14 **Q. Where is your bachelor's from?**

15 A. That's from Ohio Dominican University.

16 **Q. What year?**

17 A. I graduated in 2002.

18 **Q. And for your master's in management where is**
19 **that from?**

20 A. Mount Vernon Nazarene in 2012.

21 **Q. Okay. And what year did you begin working for**
22 **the Columbus Division of Police?**

23 A. 1989.

24 **Q. And you came on as a patrol officer?**

25 A. I came on as a recruit in the academy.

1 Q. Can you briefly go over for me your history of
2 promotion within the department including the ranks and
3 the year that you were promoted?

4 A. Sure. In 1997 I was promoted to the rank of
5 sergeant. In 2002 I was promoted to the rank of
6 lieutenant. In 2004, I believe, I was promoted to the
7 rank of commander. And in 2010 I was promoted to the
8 rank of duty chief.

9 Q. And what's your role in the organizational
10 structure in the Columbus Division of Police today?

11 A. Currently I'm the Deputy Chief in charge of the
12 Public Accountability Subdivision, which includes
13 internal affairs, professional standards, human
14 resources, and fiscal operations.

15 Q. And what duties do you have in that role?

16 A. I supervise two police commanders and two bureau
17 managers in the operations of Internal Affairs,
18 professional standards, and fiscal operations and also
19 human resources. The roles are just everything that a
20 supervisor would do, ensuring that all of those have
21 smooth and efficient operations.

22 Q. Do you oversee in that capacity -- well, strike
23 that. Can you explain to me more what your specific
24 duties are -- I think you named four different areas
25 essentially that you're supervising, right?

1 A. Right. So let's talk about Internal Affairs
2 then. Specifically there's a commander in charge of
3 Internal Affairs. I direct his work and help him
4 prioritize investigations, answer his questions,
5 although I don't rule on very many Internal Affairs
6 investigations because that goes to the chain of command
7 of the involved officer. Professional standards
8 involves staff inspections, our accreditation unit,
9 research and development, and also our grievance liaison
10 lieutenants, who are basically the prosecuting attorneys
11 for disciplinary cases in front of the chief of police.
12 Fiscal operations handles expenditures, every
13 expenditure within the division of police. Purchasing
14 and rental agreements and distribution of funds. Human
15 resources involves employee benefits, hiring both
16 civilian, and hiring recommendations for sworn, and
17 assignments, transfers.

18 **Q. You said, "recommendations for sworn," you mean**
19 **sworn police officers?**

20 A. Sworn hires. But we don't actually hire. We
21 have an appointing authority, which is the director of
22 public safety. We do handle the background
23 investigation and put those together for the director of
24 public safety to evaluated who he would choose to hire.

25 **Q. And ultimately you make a recommendation to hire**

1 individuals and the director of public safety then
2 reviews your recommendation?

3 A. We don't actually make recommendations. We
4 grade them to determine whether or not this person is
5 acceptable, unacceptable, or with reservations.

6 Q. You mentioned earlier that in relation to your
7 role supervising the bureau of professional standards
8 that you oversee grievance procedures in relation to the
9 officers who you said are like prosecutors for
10 proceedings before the chief, is that right?

11 A. That's correct.

12 Q. And can you explain to me what your role in that
13 process is?

14 A. Actually, I have very little role in that
15 process. The lieutenants work very closely to the chief
16 of police. They're within my chain of command, but
17 they're working directly with the chief on grievances,
18 and drawing up departmental charges, and explaining
19 those charges to the chief, and, again, for lack of a
20 better term, prosecuting them to the chief. I have very
21 little role in that unless they have a question about
22 what particular rule of conduct would be applicable to
23 something like that, but I very seldom need to do that
24 because they're quite seasoned in those roles.

25 Q. Do you provide any feedback or make any

1 **decisions in determining whether or not grievances**
2 **should be, for lack of a better term, prosecuted before**
3 **the chief?**

4 A. So, there's two different things that we're
5 talking about. If you're talking about a grievance,
6 what specifically are you asking about, a grievance with
7 the chief?

8 Q. Okay. So, let's walk this back. So, you
9 mentioned grievances and you mentioned the kind of
10 prosecutorial role, for lack of a better term, before
11 the chief. In terms of proceedings before the chief,
12 what kind of things are being adjudicated in those
13 proceedings?

14 A. Okay. So, a grievance would be a grievance
15 against a decision that the chief made that person feels
16 is a violation of the contract. The prosecutorial role
17 is more in a discipline hearing where an officer is
18 excused of misconduct, there's been an investigation and
19 it rises to the level of discipline where the chief of
20 police has to make an adjudication, they then present
21 that case to the chief from whatever entity conducted
22 the investigation.

23 Q. So, there's a special unit of officers who
24 fulfill that role to prosecute cases that have gone
25 through either the chain of command review or some other

1 **process where there needs to be a adjudication about**
2 **whether or not a rule violation occurred before the**
3 **chief, is that right?**

4 A. There are two lieutenants assigned to that task,
5 and they would present to the chief a finding of
6 misconduct that the chain of command found that would
7 rise to the level of discipline, which would be
8 departmental charges, that would require the chief's
9 adjudication, and they present that case to the chief.

10 **Q. Okay. So, how are cases brought to those**
11 **officers to proceed with prosecution, or whatever other**
12 **term you want to use?**

13 A. That's okay. That's a very good question. The
14 chain of command would make a recommendation to the
15 chief of police to either deviate from progressive
16 discipline or follow discipline to the level of
17 departmental charges. Departmental charges then require
18 a hearing in front of the chief of police. That
19 investigation is then sent to these two grievance
20 liaison lieutenants. That's their title. They then
21 prepare the charges, brief the chief, and enable him to
22 hold a hearing for that officer who was determined by
23 their chain of command to have violated a rule of
24 conduct that was so serious it would result in
25 departmental charges.

1 Q. So, those people ultimately, I think you said,
2 brief the chief so that the chief can hold a hearing,
3 right?

4 A. Correct.

5 Q. Do they themselves present the case to the chief
6 in the hearing, or is their role advisory prior to the
7 hearing?

8 A. They present the information to the chief prior
9 to the hearing. In the hearing itself they have very
10 little role.

11 Q. Okay. And then, for grievances, we're talking
12 about Union contract violations alleged by the officer
13 for disciplinary decisions that have been made by the
14 chain of command and/or chief?

15 A. That is correct.

16 Q. And what's your role in overseeing that process?

17 A. Again, very little, unless they have some
18 questions. There's a commander that is between the
19 grievance liaison lieutenants and myself. So most of
20 the time that commander is able to answer those
21 questions.

22 Q. What kind of questions are we talking about?

23 A. Just an interpretation of the contract itself.
24 Is this applicable to this section of the contract or
25 this particular rule of conduct. A consultation.

1 Q. Now, with regard to Internal Affairs you help
2 prioritize investigations?

3 A. Correct.

4 Q. Can you explain that to me?

5 A. For example, we may get a citizen complaint
6 involving an officer who is accused of domestic
7 violence. Needless to say, we're going to move that
8 ahead of other investigations that have contractual time
9 limits. That's, obviously, very important for us to
10 ensure that's adjudicated and investigated quickly, and
11 sometimes the other investigations have to be put on the
12 back burner that may have less serious ramifications if
13 found to be correct. We have to prioritize everything.

14 Q. And what are the criteria used to prioritize one
15 investigation over another?

16 A. The seriousness of the allegation is important.
17 Timelines are important. There's some cases that don't
18 have timelines. Citizen complaints do have contractual
19 timelines. Those are probably the two that are
20 predominate. The seriousness of the allegation and the
21 necessity to follow a timeline.

22 Q. What are the timelines for citizen complaints?

23 A. I don't have it right off the top of my head,
24 but I'm pretty sure we have to complete those within 90
25 days. I didn't bring my contract down with me.

1 Q. That's okay. Just curious. Okay. I think you
2 also might have said something about a chain of command
3 review in relation to your Internal Affairs capacity.
4 Can you explain that to me?

5 A. Well, we don't get very many citizen complaints
6 against people in Internal Affairs, so I don't often
7 have to review those any longer in this capacity.

8 Q. I see. Okay. So, your role in relation to
9 Internal Affairs primarily involves helping IA officers
10 prioritize the investigations of other officers, but in
11 that division itself, there's not very many officers, so
12 you don't have to participate in many chain of command
13 reviews, right?

14 A. Correct.

15 Q. Okay. In terms of IA investigation of other
16 officers, do you have any other duties or roles that you
17 play?

18 A. In the actual investigation?

19 Q. In the investigation or the supervision of the
20 investigation or the people conducting the
21 investigation?

22 A. I'll answer questions as they pop up, but I
23 can't think of any specific roles that I would have on a
24 regular basis every single time there's an
25 investigation, no.

1 **Q. What kind of questions pop up as investigations**
2 **come along?**

3 A. Well, there are times where there's a gray line
4 between whether something is criminal in nature or
5 administrative in nature, and we have to prioritize that
6 because of Garrity laws, and we want to make sure that
7 we're following something through as much criminally as
8 we possibly can. The unfortunate thing is that criminal
9 cases take a very, very long time, and if it stems out
10 of a citizen complaint, we want to make sure that our
11 timelines are complete even though we can hold those in
12 advance. But we also want to make sure that complainant
13 and the officer both have closure in a reasonable amount
14 of time, and unfortunately some criminal cases take a
15 very, very long time. So, we want to make sure that any
16 investigation that we have we address completely and
17 thoroughly both administratively and criminally.

18 **Q. And IA conducts both the criminal and the**
19 **administrative investigations, right?**

20 A. Sometimes. So, for example, if we're looking at
21 a theft in office case, we would utilize non-IAB
22 personnel who have more experience in investigations of
23 economic crimes than Internal Affairs investigators
24 would. So it makes more sense to have someone who is a
25 practitioner who has investigated a number of theft in

1 office type of cases do that criminal investigation, and
2 then Internal Affairs would be the administrative
3 portion.

4 Q. Okay. Let me ask one more question about this
5 background stuff. You mentioned you also supervise the
6 human resources department in the division, is that
7 right?

8 A. The Human Resources Bureau, yes.

9 Q. Okay. And part of that includes hiring of
10 civilians and recommendations regarding sworn officer
11 hirings, right?

12 A. That is correct.

13 Q. Can you explain to me what role you have in
14 relation to those particular tasks?

15 A. Okay. So, ultimately I supervise that entire
16 bureau, which includes the background investigators, the
17 polygraph operators, the manager who supervises the ORE
18 boards. Ultimately, they will send me a package for the
19 perspective hire for me to review the documents, the
20 polygraph, the background investigations, the ORE board
21 recommendations. And then, I recommend or put my
22 recommendations on there as to whether or not this
23 person is acceptable, unacceptable, or I have some
24 reservations about them becoming a police officer.
25 That's my role.

1 Q. Okay. What types of things will give you
2 reservations about a person becoming a police officer?

3 A. Honestly. Criminal history. Job evaluations.
4 References. There's a number of things that, obviously,
5 would give me reservations about having someone as a
6 police officer that needs to have a very high standard.

7 Q. You mentioned honesty as one of those criteria
8 that might give you reservations. How do you assess
9 honesty of a candidate?

10 A. The background investigation helps confirm some
11 statements made by the candidates, but we also utilize a
12 polygraph to confirm information that the candidate
13 would provide as well.

14 Q. Okay. And then, through those avenues how do
15 you come to determine whether or not an officer
16 possesses the requisite level of honesty, or does not
17 possess that level of honesty?

18 A. My recommendation is based on any amount of
19 purposeful dishonesty or misrepresentation. So if they
20 misrepresent anything in their background that's not
21 just a mistake, because people can forget what year they
22 had this job or that job, but if based on the
23 investigation and other information this person
24 purposefully was deceptive for any reason, then that's
25 going to be a person that I'm going to determine not to

1 be acceptable. And then, of course, that goes to the
2 director. They make that determination on ultimately
3 whether to hire them. That would just be my
4 recommendation.

5 **Q. Why would that make them unacceptable as a**
6 **police officer?**

7 A. Well, in my view, officers need to be trusted to
8 tell the truth even when it's an uncomfortable truth.
9 Officers testify in front of jurors. They testify in
10 front of judges. They have the authority to arrest
11 people and create affidavits. If that person has a
12 history of dishonesty, then it's going to be more
13 difficult for a jury and a judge, or anyone else, to
14 believe they're telling the truth.

15 **Q. And it would be difficult for the division**
16 **itself to trust that that officer is being honest in the**
17 **execution of his or her duties and in his or her**
18 **reports, right?**

19 MS. DEAN: Jacqueline, I just want to
20 be clear that he's speaking now as obviously the deputy
21 chief, but I don't believe this is part of his 30(b)6 on
22 what he's here to testify about. So I'm not sure that
23 he can testify on behalf of the whole department. He
24 can testify as to what his experience is.

25 MS. GREENE: Sure. You know, I think

1 ultimately this does tie directly into one of the topics
2 and we can come more specifically to that in a moment,
3 but this is directly relevant to one of the topics that
4 he's here to testify to today as a 30(b)6 witness.

5 MS. DEAN: Our understanding was that
6 it's about like the hiring disposition and the
7 supervision of the specific individuals, and then the
8 psychology evaluations and fitness evaluations for those
9 specific individuals.

10 MS. GREENE: Right. And this is
11 relevant specifically to Defendant Mason.

12 MS. DEAN: Okay. I'm not arguing
13 about relevance. I just want to make clear that he's
14 speaking specifically for the department at this point,
15 but on his behalf.

16 MS. GREENE: Okay. We'll come back to
17 it when we're talking about Mason and ask these
18 questions specifically in relation to that particular
19 hiring.

20 MS. DEAN: Thank you.

21 BY MS. GREENE:

22 **Q. All right. You also mentioned criminal history**
23 **as a category that could be considered in the**
24 **determination that person is not fit to become a police**
25 **officer. Can you explain the criteria or the bar in**

1 **which conduct must rise to determine someone is not fit**
2 **to be an officer?**

3 A. Are you speaking specifically to the civil
4 service rules?

5 **Q. You mentioned criminal history earlier, so I**
6 **guess I'll ask you first to explain to me more what you**
7 **mean by that.**

8 A. Right. So, if the person admitted to a theft
9 and they may never have been caught or charged with that
10 theft, or if a person admits to driving drunk on a
11 regular basis, or any of those things, that's the kind
12 of criminal history I'm talking about. There's an
13 automatic disqualifier in civil service rules for
14 certain kinds of criminal conduct that the person was
15 charged with.

16 **Q. Okay. Let's move on and talk about**
17 **psychological evaluations and fitness for duty**
18 **evaluations in the Columbus Division of Police. In that**
19 **context at the CDP what are psychological evaluations?**

20 A. In what context?

21 **Q. Does the Columbus Division of Police administer**
22 **psychology evaluations to its officers?**

23 A. No, we do not.

24 **Q. Does the Columbus Division of Police administer**
25 **fitness for duty evaluations for its officers?**

1 A. We do not, no.

2 **Q. Are there any kinds of psychological evaluations**
3 **conducted for Columbus Division of Police Officers at**
4 **the order of anyone in the division?**

5 A. So, after an officer is involved in a critical
6 incident we order them to our psychological provider,
7 and that can vary because of contracts, and they're only
8 allowed to return to duty if that psychological provider
9 indicates that they're safe to do so.

10 **Q. When you say "critical incident," what do you**
11 **mean?**

12 A. A critical incident can be anything from being
13 in a serious car accident; to responding to a crime
14 scene involving multiple victims or children; to being
15 in a police involved shooting; to being a victim of
16 another crime themselves. That's a pretty broad
17 spectrum. The low hanging fruit is, obviously, a police
18 involved deadly use of force situation. We make that
19 they go to see, and we order them to see a psychologist.

20 **Q. And who orders those officers to the**
21 **psychologist?**

22 A. Their commander.

23 **Q. And so, that's the commander in their chain of**
24 **command?**

25 A. Correct.

1 Q. Okay. So, how many commanders are there in the
2 Columbus Division of Police?

3 A. Seventeen or 18. Sorry. I don't have that
4 memorized.

5 Q. That's okay. What does the order state when
6 it's issued from the command?

7 A. So, the commander verbally tells them that they
8 will be going to the contracted psychologist and that
9 human resources, and we do have a person in human
10 resources, they will coordinate that appointment for
11 that particular officer. And then that psychologist
12 will then in turn report to our designee in human
13 resources that this person is okay to return to duty.
14 That's all the information that we get.

15 Q. Okay. In terms of this order to the
16 psychologist for this evaluation, what's the term of art
17 that the Columbus Division of Police uses to describe
18 this process? If it's not psychological evaluation,
19 what it is?

20 A. We're ordering them to see our psychologist.
21 That's really -- I don't know that there's a technical
22 term or acronym for it. We're just ordering them to see
23 our psychologist.

24 Q. Okay. If I use the term fitness for duty
25 evaluation, that's not a term that the Columbus Division

1 of Police uses?

2 A. Not in this context.

3 Q. Is there another context in which the CDP uses
4 that term?

5 A. We do have fitness for duty evaluations for
6 individuals who are injured or off work due to injuries,
7 and there's minimum qualifications, and -- I forget. It
8 escapes me, the terminology. The essential job
9 functions that they have to be able to follow in order
10 to go back to full-duty. That's the context that we
11 would use that terminology

12 Q. So, fitness for duty in the Columbus Division of
13 Police really pertains to physical capacity issues, is
14 that right?

15 A. Well, any number of other issues. They don't
16 just have to be physical. Are they capable of doing the
17 job function that we expect them to do.

18 Q. Is there any psychological component to the
19 fitness for duty evaluation in the Columbus Division of
20 Police?

21 A. There could be, yes.

22 Q. Okay. Fitness for duty evaluations that you
23 said are ordered to be conducted for officers who are
24 injured or off work due to injuries, right?

25 A. Right. Fitness for duty. They're off-duty.

1 We're trying to determine whether they can return to
2 work now or really return to work ever.

3 **Q. What would be the potential psychological**
4 **component of that assessment?**

5 A. Well, if psychologically they are having
6 hallucinations, or unable to communicate orally. Any
7 number of psychological types of things that would
8 inhabit someone from being able to effectively do their
9 job as a police officer. Hallucinations obviously would
10 be something that would be problematic with that.

11 **Q. Okay. If those types of events are happening,**
12 **or have happened for an officer, is that officer then**
13 **also referred to the contracted psychologist that you**
14 **mentioned earlier for evaluation as part of a fitness**
15 **for duty evaluation?**

16 A. Maybe. It depends upon whether or not they have
17 their own psychologist that has been providing
18 information to us.

19 **Q. Okay. So, for the purposes of capturing what I**
20 **would like to ask you about today, can we agree to use**
21 **the term psychological evaluation to describe any time**
22 **that the division orders an officer to see a**
23 **psychologist for the purposes of evaluating that**
24 **officer's ability to do the job?**

25 A. Sure. I don't have a problem with that.

1 Q. Okay. Since there's no clear term of art that
2 you guys use?

3 A. Right.

4 Q. Okay. So, can you please explain to me all of
5 the type of circumstances in which an officer would be
6 ordered to have a psychological evaluation by the
7 division?

8 A. A police use of deadly force, such as a police
9 involved shooting. If the officer is a victim of a
10 serious crime, such as if they were shot or shot at. If
11 an officer is involved in a deadly crash with someone
12 else, obviously, if they're not the victim. And then,
13 others would be at the discretion of the commander.
14 They're not automatic. I mentioned that before. If we
15 have an officer or officers who respond to a
16 particularly gruesome crime scene, we have the ability
17 to order them to our psychologist to ensure that their
18 mental health is in such a way that they can safely
19 return to work.

20 Q. Okay. Is there any criteria in place dictating
21 when a commander should exercise that discretion to send
22 an officer to a psychologist?

23 A. We term it as a critical incident, and we depend
24 on commanders who have significant amounts of experience
25 to make that termination, because each and every

1 critical incident is slightly different. So, if you go
2 to a crime scene and there's four adults that have been
3 ejected from a van, or something like that, that may not
4 necessarily have the same psychological impact on
5 someone as if it was four children or infants. It's
6 really dependent upon the commander and their knowledge
7 and their supervisor's knowledge of the officers to
8 determine whether or not this is a situation where we're
9 going to order them there. There's some that are
10 automatic, as I mentioned, but there's a great deal of
11 discretion for others.

12 **Q. For the ones that are automatic, is that written**
13 **into a policy, or a directive somewhere? Where is it**
14 **deemed that the particular events are automatically**
15 **referred to a psychologist?**

16 **A.** I believe that's in the directive for the police
17 involved shooting, but I don't have that in front of me
18 to confirm that. But I know that is the practice, each
19 and every police involved shooting.

20 **Q. Okay. So, for any police involved shooting that**
21 **a Columbus Division of Police officer is involved in, it**
22 **is the policy, practice, and rule in the division of**
23 **police that that officer will be referred for**
24 **psychological evaluation prior to returning to duty,**
25 **right?**

1 A. No. If a police officer has to fire his weapon
2 at a vicious animal, they're not going to be ordered
3 there. If a police officer has to use their firearm
4 against an aggressive person and misses, they may or may
5 not be referred. I think we're having more of a
6 standard practice where they are, but if their target is
7 struck, then, yes, they're absolutely required to go to
8 that psychologist now.

9 Q. Okay. And when did that practice begin in the
10 division?

11 A. The requirement or -- I know there's been some
12 instances in the past where not every person has been
13 required to go, but I do know under our current chief
14 over the past two years, each and every one has been
15 required to go.

16 Q. Okay. Well, can you explain to me from your
17 knowledge, I guess, and you've been in the department
18 for a number of years, the history of that practice?
19 Can you explain to me when it first started and at what
20 point any portion of it became mandated and how?

21 A. That was in effect from the time that I came on
22 in 1989, that officers involved in a deadly use of force
23 would be referring to our psychologists.

24 Q. And that's just if you hit a person you're
25 talking about right now, correct?

1 A. I've never been involved in a police involved
2 shooting. I've never had to do that. So, I would
3 assume that when I came on in 1989 that that was the
4 case. That's what I was told in the academy, that if
5 you were involved in a police involved shooting you'd be
6 going to the psychologist. But I don't know if that
7 involved a shoot and miss or whatever. So, as I became
8 a supervisor as I went forward, especially as a
9 commander, I required officers to go in almost every
10 case. I didn't always require them to go if they
11 missed, if there was not a person that they struck at
12 that time, but now we're doing that for each and every
13 time a police officer pulls his trigger and it's aimed
14 at a human individual.

15 **Q. Okay. And you said that change has been**
16 **mandated since the new chief became the chief?**

17 A. Correct.

18 **Q. And that's Chief Quinlin?**

19 A. Correct.

20 **Q. What year did Quinlin become chief?**

21 A. I believe it was February of 2020, but he was
22 the interim before that for about a year.

23 **Q. So you said approximately the past two years**
24 **that practice has been in place?**

25 A. Right. There is not option to say, well, this

1 person doesn't need to go or something like that.

2 They're absolutely going.

3 Q. And before Quinlin became chief and this new
4 mandated practice became involved, it was up to the
5 commander's discretion in any circumstance that did not
6 involve actually hitting a person as to whether or not
7 the subordinate officer should have a psychological
8 evaluation, is that right?

9 A. To be referred to the psychologist, that's
10 right.

11 Q. Let me ask you this:. You say referred to the
12 psychologist, and you guys don't call it a psychological
13 evaluation, right?

14 A. I don't know what they do. I've never been in
15 one, so I don't know what the psychologist is doing
16 there. All I know is that the psychologist ultimately
17 tells us if this person is safe to return. So, I guess,
18 it could be an evaluation, but I don't know what steps
19 happen. We have to depend on them.

20 Q. You mentioned that the psychologist used for
21 this purpose, there are contracts in place setting up
22 that relationship with the division, right?

23 A. Right.

24 Q. Does that contract layout what the psychologist
25 is supposed to be evaluating or assessing when they meet

1 **with an officer?**

2 A. I have not seen that contract nor have I been
3 involved in the negotiation of those contracts.

4 **Q. Do you have access to those contracts?**

5 A. I probably could get one. I would assume that's
6 going to be a public record.

7 **Q. And you didn't review those contracts in**
8 **preparation for today's deposition?**

9 A. No.

10 **Q. Okay. So, how many psychologists does the**
11 **division work with to provide an assessment as to**
12 **whether or not an officer is fit to return to work?**

13 A. You mean how many psychologists would be in that
14 practice, or how many different are under contract?

15 **Q. How many are under contract at any given time?**

16 A. I don't know the answer to how many contracts we
17 have.

18 **Q. Is there more than one psychologist that the**
19 **division uses?**

20 A. Maybe. I don't know if we have a contract with
21 a practice and they may have more in the practice. I
22 don't know the answer to that.

23 **Q. Now, we talked about psychological evaluations**
24 **being conducted after a police involved shooting of the**
25 **types that we have already discussed. Are psychological**

1 **evaluations conducted also at the time of hiring**
2 **officers?**

3 A. Yes.

4 **Q. And is that true for every officer who is hired?**

5 A. Every officer who is hired now? I don't believe
6 that's been the case forever within the division of
7 police, no. As a matter of fact, I'm positive that it
8 has not.

9 **Q. Do you know when the practice of conducting**
10 **psychological evaluations for potential hires began?**

11 A. I do not.

12 **Q. Was it within the last ten years?**

13 A. The only thing that I can answer, ma'am, is that
14 I did not take one when I came on in 1989, but I do know
15 that they're in place today.

16 **Q. And you don't have any knowledge as to when that**
17 **practice began other than that it was not in place in**
18 **1989?**

19 A. Correct.

20 **Q. What's the purpose of a psychological evaluation**
21 **conducted at the time of hire?**

22 A. We don't do those, ma'am. That's the director
23 of public safety. They schedule those, and they get
24 those, and they use those. We don't see them. We don't
25 schedule them. We have nothing to do with the hiring of

1 psychological evaluations just like the physicals.

2 Q. Okay. And do you know what the purpose of those
3 evaluations is, even if it's the director of public
4 safety that's ordering them, do you know what the
5 purpose of those evaluations is?

6 A. I do not.

7 Q. Well, do you know beyond the circumstances that
8 you've already listed for me, and at the time of hiring,
9 do you know whether there are any other periodic or
10 event triggered psychological evaluations conducted for
11 officers in the Columbus Division of Police?

12 A. Would you repeat that?

13 Q. Sure. I guess beyond what you already told me
14 and beyond at the time of hire, are there any other
15 times that psychological evaluations are conducted with
16 respect to CPD officers?

17 A. Ordered?

18 Q. Yes.

19 A. I do not.

20 Q. Okay. And you stated earlier that you believe
21 the officer involved shooting related policies dictate
22 that after that occurs a psychological evaluation will
23 be conducted, right?

24 A. Correct.

25 Q. Are there any other policies that you're aware

1 of that dictate when or whether an officer should be
2 subjected to a psychological evaluation by the division?

3 A. I can't think of any.

4 Q. Okay. So, turning back to, I guess, the primary
5 event that leads to a psychological evaluation, an
6 officer involved shooting event, you said these are
7 ordered by the commander in the chain of command, right?

8 A. Ordered by the commander, yes.

9 Q. Is there anybody else who participates in that
10 decision-making to determine whether or not someone
11 needs to go see a psychologist?

12 A. Well, there are a number of people that could
13 be involved in that process. There's a frontline
14 supervisor who makes the recommendation to the commander
15 that this is more than just what appears to be. It's
16 more critical, or this officer just had a baby and
17 there's a baby in the scene. So, I mean, there's any
18 number of people who can chime in and make
19 recommendations to that commander and provide some
20 professional guidance. Does that answer your question?

21 Q. Yeah. So, you're basically saying other people
22 in the chain of command may make suggestions to the
23 commander that this would be an appropriate event for a
24 psychological evaluation?

25 A. Correct.

1 Q. Anyone outside of the chain of command ever make
2 those kinds of recommendations?

3 A. I can't answer that.

4 Q. Okay. You mean you just don't know?

5 A. I'm sure -- I don't know if there's other people
6 that I don't know about who have been outside the chain
7 of command who have made recommendations to other people
8 about that. That would be speculation on my part, and I
9 really cannot legitimately answer that question.

10 Q. Okay. Fair enough. You said that the commander
11 gives an oral order to the involved officer that they're
12 going to be referred for the examination, that HR will
13 schedule it, and then the psychologist will tell the
14 division that they're fit to come back for duty?

15 A. That's correct.

16 Q. And then, HR contacts that person to schedule
17 the evaluation itself, is that right?

18 A. That is correct. They schedule it for the
19 officer involved.

20 Q. Okay. And this HR -- strike that. So, the
21 purpose of these evaluations is to assist the division
22 of police in deciding whether an officer is in
23 sufficient mental health to continue his duties,
24 correct?

25 A. That's part of it, yes.

1 Q. What's the other part?

2 A. To ensure that we have healthy police officers
3 returning to duty. We have a significant problem across
4 the country with police officers committing suicide.
5 Critical incidents and PTSD play a significant role in
6 that, and we want to make sure that we're intervening in
7 a timely manner to ensure that we have healthy police
8 officers returning to duty and healthy officers that
9 even don't return to duty.

10 Q. Okay. So, the evaluations are for the purposes
11 of determining the state of an officer's mental health,
12 and for the sake of determining whether that officer's
13 mental health renders them fit for duty, right?

14 A. Absolutely.

15 Q. So, ultimately then, these evaluations are
16 personnel evaluations, correct?

17 A. No. I don't think that would equate to that.

18 Q. Well, in terms of the portion of this that
19 determines whether or not an officer is fit for duty,
20 that would constitute a personnel evaluation, right?

21 A. I don't know that I would use that terminology.

22 Q. Can you describe for me then, how the
23 subdivision uses the information from a psychological
24 evaluation of one of its officers with regard to that
25 person's ability to serve as an officer?

1 A. I would think that it would be used in the same
2 way that a medical exam is, if an officer doesn't have
3 the ability to perform the essential functions of a
4 police officer, then we would not allow them to go back
5 to full-duty. The physical portion and the mental
6 portion are exactly the same. It's not a personnel
7 evaluation, it is a medical evaluation that just happens
8 to be psychological in nature.

9 Q. But, the purpose is to determine fitness for
10 duty ultimately?

11 A. No. As I mentioned before, there are two prongs
12 to this.

13 Q. I'm talking now about the portion that we've
14 been talking about, that you were just discussing, this
15 is like undergoing a medical exam for the purposes of
16 determining whether or not you can do the job. The
17 psychological evaluation is also done for the purposes
18 of determining whether or not you could do the job, even
19 if there's also a part about making sure that you're
20 healthy and well, it's also done for the purpose of
21 figuring out whether or not the officer can do the job,
22 right?

23 A. If the officer should return to duty, correct.

24 Q. Okay. And so, like a medical evaluation
25 conducted for an officer, these psychological

1 **evaluations also are not done for the purpose of**
2 **providing medical care, they're done for the purpose of**
3 **instead accessing whether or not the officer can return**
4 **to duty, right?**

5 A. I don't think I agree with that premise. Would
6 you try that again?

7 Q. Sure. We talked a moment ago about medical
8 evaluations of officers for the purposes of determining
9 if they're fit to return to duty, correct?

10 A. That's correct.

11 Q. And in those evaluations there's no medical care
12 or treatment provided, correct?

13 A. Well, I don't believe that's necessarily true
14 either. So, if we have an officer who's been unable to
15 perform their functions and they go to the doctor and
16 the doctor determines, hey, you have a heart condition,
17 that's why you can't do it, we certainly have an
18 expectation that the doctor will arrange for that heart
19 condition to be treated. So I would conclude that we
20 would have the exact same set of circumstances in a
21 psychology evaluation. If a doctor were to determine
22 that there's a psychological issue here that would keep
23 this person from performing their functions, that they
24 would then plan for and help provide any kind of
25 treatment that would be needed as well.

1 Q. Does the contract that the division has with
2 these psychologists include treatment of mental health
3 issues of its officers?

4 A. Like I mentioned before, I haven't seen the
5 contract. But we do have contracts with mental health
6 providers to ensure that officers have mental health, so
7 we do have those in place. They may actually be the
8 same contractors. I don't know the answer to that
9 question. We could have the same contractor under our
10 insurance as we have performing these evaluations.

11 Q. You're here to testify about psychological
12 evaluations of these officers, and that includes the
13 conditions and the circumstances surrounding how those
14 evaluations are administered. And as you sit here you
15 tell me that you don't know what the parameters are with
16 regard to the services that the psychologists are
17 supposed to provide in the evaluations, right?

18 A. I'm telling you I don't have the contract with
19 me, but if that's something that you think is germane,
20 I'll be more than happy to grab a copy of that contract
21 and we can do this again.

22 Q. I don't want to come back again. Let's move on
23 here. Let me ask you this: After a psychological
24 evaluation an officer who has been ordered by a
25 commander to attend, are they provided with a treatment

1 **plan by the psychologist who performed the evaluation?**

2 A. If they were, we wouldn't necessarily know about
3 that.

4 MS. DEAN: Jacqueline, we understood
5 that Chief Deputy Bash was coming today to testify about
6 the evaluations conducted on these individuals. And I
7 think to the extent that none of them were provided with
8 a treatment plan, we don't understand that he had any
9 reason to look into all of the options available as a
10 result of the psychological evaluations.

11 A. I don't know that we would be told if they had a
12 treatment plan thereafter, because that would be
13 privilege between their doctor. So, I don't know that
14 we would even have that information.

15 BY MS. GREENE:

16 **Q. Let me ask you a different question. The**
17 **psychologist that the officers are ordered to see for**
18 **psychological evaluations are not those officers**
19 **personal psychologists, correct? They're not their**
20 **personal care providers?**

21 A. I don't know the answer to that question, ma'am.
22 I don't know who their personal care providers are, so I
23 can't answer that question. I can't tell you that
24 they're not their personal care providers after they
25 meet with them.

1 Q. Well, in any case, after a psychological
2 evaluation is conducted the psychologist does provide a
3 report back to the division of police, correct?

4 A. They provide an opinion back to the division,
5 yes.

6 Q. And what's the content of that opinion?

7 A. Whether or not this officer can safely return to
8 work or not safely return to work.

9 Q. Okay. I'm going to come back to that in a
10 second, but let me ask a couple more background
11 questions first. When an officer is referred by his or
12 her commander to a psychologist for an evaluation,
13 they're ordered to participate and undergo that
14 evaluation, right?

15 A. That is correct.

16 Q. And they understand that they must participate
17 in that evaluation as part of their duties as a police
18 officer, correct?

19 A. Would you repeat that question?

20 Q. The officer who is ordered to go to the
21 evaluation, they understand that they're required to do
22 so as part of carrying out their duties as an officer,
23 correct?

24 A. They're required to go and participate as part
25 of their employment, yes.

1 Q. And they understand that information relating to
2 that evaluation will be provided to and accessible to
3 the police department afterward, right?

4 A. I don't know what information -- they do know
5 that they'll have a determination as to whether they can
6 or cannot return to duty. I don't know if they're told
7 by their doctor how much of this information will be
8 shared. Just like any other doctor/client privilege, or
9 doctor/patient, whatever.

10 Q. Well, it is understood by the officers that
11 information of some amount will be shared with the
12 division after, correct?

13 A. Whether or not they can return to work, yes.
14 That's the only information that we get.

15 Q. Who performs psychological evaluations for the
16 Columbus Division of Police?

17 A. I don't have a copy of that contract, so I don't
18 know who that company is or the psychologists are.

19 Q. And you said there's contracts pertaining to
20 those services?

21 A. That's correct.

22 Q. Are those service providers on a retainer for
23 the division?

24 A. Can you explain what that means?

25 Q. I guess can you explain to me the relationship

1 between the psychologists and the division of police and
2 how or weather that psychologist is excepted to be
3 available for work in relation to the division's needs?

4 A. So, again, I haven't seen the contract. The way
5 it works is that we tell them that we are contracting
6 them for these services and this is how much we'll be
7 able to pay for these services, so it's a financial
8 contract. I don't know that they establish how often
9 they're available, but this is what they'll charge for
10 this consultation, evaluation. It's a financial
11 contract.

12 Q. Okay. Are the evaluations conducted on CDP
13 premises or elsewhere?

14 A. No. They're done at the offices of the
15 psychologists.

16 Q. Do you know how long these evaluations typically
17 last?

18 A. I have no idea.

19 Q. I think I've seen in this documentation they've
20 lasted in some cases around one hour. Are you aware of
21 that?

22 A. I'm not aware of that.

23 Q. Do you know whether any diagnostic testing is
24 performed during these evaluations?

25 A. I don't know.

1 Q. Findings from these evaluations are provided to
2 whom in the division of police?

3 A. The opinion as to whether or not this officer
4 can return to work is provided back to the human
5 resources person who scheduled it. And then, we advise
6 the commander, or that HR representative, advising the
7 commander that this person is approved to return to
8 regular duty or not approved to return to regular duty.

9 Q. And is that documentation maintained in the
10 officer's personnel file?

11 A. I do not know the answer to that question, but I
12 can find that out.

13 Q. In your experience in, I guess, any of the
14 supervisory positions that you've held, have you ever
15 seen an officer deemed not able to return to duty by a
16 psychologist for the division?

17 A. Yes.

18 Q. How many times?

19 A. I can think of one specifically right now. It
20 was a police involved shooting, but he didn't shoot. He
21 was shot. So, for sure one.

22 Q. And what rendered him unable to return to work?

23 A. That's up to the psychologist. We were just
24 told that he's not ready to return to full-duty yet.

25 Q. You're not made aware of any of the

1 **circumstances surrounding that determination?**

2 A. I don't believe the psychologist shares that
3 information. The psychologist shares whether or not
4 that person can or cannot return to full-duty.

5 **Q. Were you in that person's chain of command at**
6 **the time this determination was made?**

7 A. I was not.

8 **Q. And how were you then aware of the determination**
9 **when it was made?**

10 A. I was in charge of the investigative subdivision
11 at the time, and I was made aware, I think, by their
12 chain of command.

13 **Q. When you say, "the investigative subdivision,"**
14 **what do you mean?**

15 A. At the time of my previous assignment the
16 investigative subdivision had crimes against persons,
17 crimes against property, special victims and the crime
18 lab. So crimes against persons investigated and
19 investigates aggravated assault, and assaults, police
20 involved shootings. So we were there when the officer
21 was shot in the car conducting that investigation. Of
22 course, I was just there for support, but they were
23 conducting that investigation.

24 **Q. What do you mean you were there for support?**

25 A. Well, I was at the hospital when the officer was

1 there in the hospital, and making sure that we had all
2 of the resources that we needed to adequately conduct
3 this investigation.

4 **Q. And how did you end up finding out about the**
5 **outcome of that evaluation?**

6 A. I didn't find out about the outcome of the
7 evaluation. I was told that he has not returned to
8 regular duty after the normal three days due to, I
9 guess, the psychologist making that recommendation.

10 **Q. And who told you that?**

11 A. I can't tell you that and be one hundred percent
12 accurate. Someone within his chain of command.
13 Probably another duty chief or commander, but I can't
14 specifically tell you specifically who that was.

15 **Q. When findings from these psychological**
16 **evaluations are provided to the division, you said they**
17 **go to HR, HR advises the commander. Is there anyone**
18 **else in the chain of command who is then made aware of**
19 **the findings?**

20 A. The expectation is that the commander would
21 advise the officer's chain of command, the lieutenant
22 and sergeant where the officer works. That should be
23 the extent of that.

24 **Q. So then, it comes down the chain of command to**
25 **the point where there's some communication between the**

1 **direct supervisor and the involving officer?**

2 A. That he'd been cleared to return to work.

3 **Q. Okay. Is a formal letter sent with the**
4 **findings?**

5 A. I don't know the answer to that question. I've
6 got that on my list here to check out.

7 **Q. Okay. So, to the extent that there is a letter**
8 **that's provided by the psychologist to the division,**
9 **where is that letter stored?**

10 A. Again, I don't know that there is a letter, but
11 if there was a letter, it would probably be in human
12 resources.

13 **Q. Would that be then, in an officer's personnel**
14 **file?**

15 A. Potentially. But, again, I don't know what the
16 -- that would be the potential place for it. I don't
17 know that for sure. That's on my list of things to
18 check out for you.

19 **Q. Okay. Have you seen any findings letters**
20 **related to psychological evaluations for John Narewski,**
21 **Matthew Baase, Keith Abel or Bryan Mason?**

22 A. Let me check to make sure that I didn't miss
23 them here in this plethora of things. But as I
24 mentioned before, I don't necessarily remember seeing
25 one, but that doesn't mean that I haven't. As a matter

1 of fact, I've got one right here. So, yes. They do get
2 letters.

3 **Q. Who is that letter for that you're looking at?**

4 A. I have one right here dated September the 19th,
5 2016, indicating Officer Bryan Mason. This is a letter
6 addressed to then HR manager, Ms. Vollmer.

7 "Columbus Division of Police Officer Bryan Mason
8 was subject to a Critical Incident Stress Debriefing on
9 September 15, 2016. The duration of this evaluation was
10 approximately one hour in length and was performed by
11 Stephen A. Douglas, Ph.D."

12 "It is our professional opinion Officer Mason is
13 psychologically suitable to return to work. Please feel
14 free to contact our office if you have any additional
15 questions. Sincerely, signed Stephen A. Douglas, Ph.D.
16 Police Psychologist." So, there's one.

17 **Q. Okay. I'm going to share my screen with you.**
18 **Is the document that you see on your screen right now**
19 **the same one that you were just referencing?**

20 A. It appears to be so.

21 **Q. Okay. I'm going to mark this as Exhibit 1.**

22 - - - -

23 (Thereupon, Plaintiff's Exhibit 1 was marked for
24 identification.)

25 - - - -

1 BY MS. GREENE:

2 Q. And so, we see here for this particular
3 evaluation it lasted for about one hour, right?

4 A. That's what it says.

5 Q. And it looks like perhaps the Columbus Division
6 of Police term of art is critical incident stress
7 debriefing, is that right?

8 A. That's the way that Dr. Douglas defines it, yes.

9 Q. This letter also says, "Please feel free to
10 contact our office with any additional questions,"
11 correct?

12 A. Yes, it does.

13 Q. Do you know whether in relation to this letter
14 concerning Bryan Mason the division contacted
15 Dr. Douglas' office with any additional questions?

16 A. I do not know that.

17 Q. Did you take any steps to determine whether or
18 not there were any additional questions of follow-up
19 communication with Dr. Douglas after this evaluation?

20 A. I did not.

21 Q. I see here at the bottom that Douglas is a
22 police psychologist. Do you see that?

23 A. I see that's what he has on his letter, yes.

24 Q. Is that just referencing his role as the
25 psychologist for the Columbus Division of Police, or do

1 **you understand what that indicates?**

2 A. I do not understand what that indicates because
3 he's not an employee of the Columbus Division of Police.

4 **Q. Okay. Beyond that findings letter, have you**
5 **seen any other findings letters pertaining to Mason, or**
6 **any findings letters pertaining to Baase, Narewski, or**
7 **Abel?**

8 A. Let me take a look here and see what else is in
9 this big pile. I do not see any other ones in the
10 documents that I was provided, no.

11 **Q. As you sit here today, do you know whether or**
12 **not Keith Abel, John Narewski, or Matthew Baase were**
13 **ever subjected to psychological evaluations after these**
14 **police involved shooting events?**

15 A. I don't know that for a fact, no.

16 **Q. You don't know that?**

17 A. I don't have any documentation to say that they
18 did, so I do not know, and I can't tell you if they did
19 or did not.

20 **Q. You do understand that you were designated to**
21 **testify binding testimony on behalf of the city today**
22 **concerning the psychological evaluations of those**
23 **officers, correct?**

24 A. Uh-huh.

25 **Q. And you did nothing to find out whether or not**

1 **they'd been subjected to psychological evaluations?**

2 A. I did not.

3 **Q. And your lawyer didn't instruct you to do**
4 **anything to find out whether or not they were subjected**
5 **to psychological investigation?**

6 MS. DEAN: Jacqueline, I'm looking
7 through to see if we sent him the information. My guess
8 is that we do have evaluations in here, but I don't know
9 where. And I, obviously, am not as involved in this
10 case as other lawyers are, but I'll look at it.

11 MS. GREENE: I'm going to keep moving
12 on, and maybe on a break we can talk about this a little
13 more, Theresa.

14 BY MS. GREENE:

15 **Q. How are the findings from these psychological**
16 **evaluations used in hiring or firing decisions of**
17 **officers?**

18 A. I'm not sure I understand your question.

19 **Q. Are psychological evaluations obtained at the**
20 **order of either the division of police or the department**
21 **of public safety used for hiring or firing**
22 **determinations with regard to police officers?**

23 A. So, there's a psychological exam that the
24 director of public safety orders before they provide an
25 offer of employment. I don't have access to that. I

1 don't have any involvement in that. That would be a
2 question that you would have to ask the director of
3 public safety office. I don't believe those are used --
4 I've never seen them used in a termination case. But,
5 again, we don't have them in the division of police so
6 we wouldn't have access to that information in
7 recommending a termination, but we also don't have the
8 authority to terminate. Again, that would be the
9 directed appointed authority, which would be the
10 director of public safety's office. I would not have
11 access to that.

12 **Q. Do you know whether Mason, Baase, Narewski, or**
13 **Abel were subjected to psychological evaluations at the**
14 **time of hire?**

15 A. There's a lot of documents in background
16 investigations. No. I do not have any documentation or
17 invitation to a psychological exam for any of those
18 listed officers.

19 **Q. Okay. I'm going to show you another document**
20 **briefly. Do you see a document on your screen right**
21 **now?**

22 A. Okay. There we go.

23 **Q. What's the document that we're looking at right**
24 **now?**

25 A. That's a copy of the officer's selection

1 process. Let me see if I have that, too.

2 Q. We can look at this document on the screen. I'm
3 going to mark this as Exhibit 2.

4 - - - -

5 (Thereupon, Plaintiff's Exhibit 2 was marked for
6 identification.)

7 - - - -

8 BY MS. GREENE:

9 Q. This is a letter to Bryan Mason dated October
10 11th, 2006 concerning psychological evaluation as the
11 last step in the police officer selection process,
12 correct?

13 A. Yes.

14 Q. So, by nature of this letter, do you know
15 whether or not Bryan Mason was subjected to a
16 psychological evaluation for the purposes of hiring?

17 A. It appears that he was.

18 Q. And as we -- do you know whether the division of
19 police is provided with any findings letters from the
20 psychological evaluation conducted at the point of
21 hiring?

22 A. I have not seen any of those evaluations
23 letters. In the year-and-a-half that I've been involved
24 in the hiring process I've not seen any.

25 Q. Okay. We do know that based on this letter, as

1 least as far back as 2006, psychological evaluation were
2 part of the hiring process, right?

3 A. It appears to be so.

4 Q. Do you know whether or not that was part of the
5 hiring process before 2006?

6 A. I do not.

7 Q. And as we sit here today, you don't know whether
8 Matt Baase, John Narewski, or Keith Abel were subjected
9 to psychological evaluations as part of the hiring
10 process, correct?

11 A. I did not see letters like that in their
12 background, no.

13 Q. And you don't otherwise know that they were
14 subjected to psychological evaluations?

15 A. I do not know that, no.

16 Q. Okay. And as far as you know, as we sit here
17 today, the only psychological evaluation that -- sorry.
18 The only officer that you're aware of having been
19 subjected to any psychological evaluation out of Baase,
20 Narewski, Abel and Mason, is Mason, right?

21 A. That's the only one that I see, yes.

22 Q. Okay. Do you know whether psychological
23 evaluations conducted after a critical incident are used
24 in the chain of command review for deadly force events?

25 A. They are not.

1 Q. And is there a policy or some kind of written
2 directive that states that they're not to be used for
3 that purpose?

4 A. No. There is no policy that says that they're
5 not to be used for that purpose.

6 Q. So, what's the basis of your statement that
7 they're not used for that purpose?

8 A. My experience in evaluating a number of police
9 involved shooting packages where the evaluation is based
10 on the incident in and of itself, what a reasonable
11 officer would do at that particular time without any
12 hindsight. That's what we're evaluating in determining
13 whether or not they acted within our policy.

14 Q. So, you're saying that the psychological
15 evaluations conducted after the fact are not used for
16 those determinations?

17 A. Correct.

18 Q. Are psychological evaluations conducted after
19 the fact used for the purpose of ongoing supervision of
20 those involved officers?

21 A. I don't believe so, because most of the time
22 that supervisor is not going to have any additional
23 information about any kind of diagnosis. The only thing
24 that the chain of command may know is if this person is
25 not cleared to come back and return to duty.

1 Q. Do you know whether those psychological
2 evaluations conducted after a critical incident are used
3 in any other way other than determining that a person is
4 able to come back to duty or not?

5 A. They are not used for anything else other than
6 determining whether or not this person is cleared to
7 return to duty.

8 Q. Okay. And so, as we sit here today, with
9 respect to Keith Abel, who shot James England, you do
10 not know how many times or whether the CDP has required
11 Abel to undergo a psychological evaluation, correct?

12 A. That is correct.

13 Q. So, you don't know with respect to any
14 evaluation that might have been conducted when it
15 occurred, why it was ordered, the purpose of the
16 evaluation, the findings or conclusions, correct?

17 A. I do not know that for a fact, no.

18 Q. And you don't know whether there were any
19 psychological issues identified during any psychological
20 evaluation with respect to Keith Abel at any point in
21 time during his employment with the CDP, right?

22 A. I'm sorry. Would you repeat that one?

23 Q. You don't know whether or not there were any
24 psychological issues that were identified during any
25 psychological evaluation of Keith Abel during his

1 employment with the division, correct?

2 A. I don't know if he had any psychological
3 evaluation, so I wouldn't have that information either.

4 Q. And you don't know as you sit here right now
5 whether Abel was ordered to undergo a psychological
6 evaluation after the shooting of James England?

7 A. I do not know unequivocally, no.

8 Q. What do you mean "unequivocally?"

9 A. I know what the practice has been, but I cannot
10 sit here and tell you that that commander told him to go
11 and he was scheduled. I don't have any documentation to
12 tell me that.

13 Q. Okay. What about Matthew Baase, as we sit here
14 today, with respect to Matthew Baase, you don't know
15 whether or how many times the CDP has ever ordered or
16 required Baase to undergo a psychological evaluation,
17 correct?

18 A. I do not have that documentation, no.

19 Q. And to the extent that he ever was evaluated,
20 you don't know any of the details, purpose of the
21 evaluation, when, or why the evaluation was ordered,
22 right?

23 A. Again, you're going to have to repeat that one.

24 Q. With respect to Baase then, for any evaluation
25 that he was subjected to, you don't know when that

1 occurred, why that was ordered, what the purpose of that
2 evaluation was, or what any findings or conclusions of
3 that evaluation were, right?

4 A. I do not have any knowledge that he was in any
5 way there, so I cannot answer those other questions
6 either.

7 Q. Okay. And you don't know whether or not Baase
8 was ordered to undergo a psychological evaluation after
9 the shooting of Deaunte Bell-McGrew, correct?

10 A. I do not know that unequivocally, no.

11 Q. And with respect to John Narewski, who also was
12 involved in the shooting of Deaunte Bell-McGrew,
13 likewise, you don't know whether or not Narewski was
14 ever ordered to undergo a psychological evaluation after
15 that shooting, correct?

16 A. I do not.

17 Q. And you don't know whether or how many times the
18 CDP has ordered or required him to undergo a
19 psychological evaluation, do you?

20 A. I do not.

21 Q. So, you don't know when or why the evaluation
22 was ordered, the purpose of the evaluation, or any
23 findings or conclusions from that evaluation, if there
24 ever was one, correct?

25 A. I do not have any knowledge of that evaluation.

1 Q. Okay. Let's talk about Bryan Mason for a
2 moment. How many times has the CDP required him to
3 undergo a psychological evaluation?

4 A. I have a documentation that one-time he was
5 ordered to appear, or that he did appear.

6 Q. And when you say "one-time," I think that we've
7 looked at documents so far both about a psychological
8 evaluation at the time of hire and in 2016, correct?

9 A. Okay. So, those are two different things, but
10 yes. We had documentation that he had a preemployment
11 screening, and we have documentation that he had one
12 based on a critical incident. That's correct.

13 Q. So, when you're saying "one-time," you're
14 talking about one-time with respect to a critical
15 incident, right?

16 A. One-time that's documented in regard to a
17 critical incident. That's correct.

18 Q. I'm going to share **Exhibit 1** with you again. So
19 this is the single evaluation with respect to the
20 critical incident that you're aware of, right? This
21 document, **Exhibit 1**?

22 A. That's the only document that I've seen.
23 Correct.

24 Q. And this is an evaluation conducted September
25 19th, 2016 after the shooting of Tyree King, correct?

1 A. It's in 2016, yes. I don't have that other
2 reference as to who the other party was involved in the
3 police involved shooting, but I believe that's the case
4 based on the summary here. That's correct, yes.

5 **Q. Okay. Do you know who ordered this evaluation?**

6 A. I do not. Whoever that commander was in 2016.

7 **Q. Do you know when this evaluation was ordered?**

8 A. No. I do not specifically know when this was
9 ordered, no.

10 **Q. Do you know what the purpose of this particular**
11 **evaluation was?**

12 A. Yes.

13 **Q. What was that?**

14 A. To determine whether or not this officer could
15 return to regular duty.

16 **Q. And the finding was that Officer Mason was**
17 **psychologically suitable to return to work, correct?**

18 A. That's what it says, yes.

19 **Q. Do you know whether there are any other**
20 **documents associated with this evaluation with this**
21 **findings letter that have ever been provided to the CDP**
22 **from Stephen Douglas?**

23 A. I do not have anything else provided by
24 Dr. Douglas, no.

25 **Q. And when you say that you don't have anything**

1 else, you mean you don't have anything else in the files
2 that were provided to you by counsel, correct?

3 A. Correct.

4 Q. And you don't know whether or not there are
5 other documents in the possession of the CDP pertaining
6 to this evaluation because you haven't looked for them,
7 right?

8 A. I do not know that, correct.

9 Q. Do you know whether anyone from the CPD
10 contacted the psychologist with follow-up questions as
11 invited at the close of this letter that we're looking
12 at?

13 A. I do not know that, no.

14 Q. Okay. And just to be clear, with respect to all
15 four of these officers, Baase, Narewski, Abel, and
16 Mason, you have not conducted any search for any
17 documents relating to psychological evaluations of these
18 officers, have you?

19 A. I have not done any additional search for any of
20 the documents, no.

21 Q. Do you know whether any such documents would be
22 located if we wanted to request them, or if we wanted
23 you to go find them?

24 A. I do not know that any of these others exist.
25 They would be in the case files that are here. That

1 would be my best presumption, but I don't know where
2 they would be besides in these documents that you
3 currently have.

4 MS. GREENE: I want to take about a
5 ten minute break and come back. Okay?

6 - - - -

7 (Thereupon, an off-the-record discussion was held.)

8 - - - -

9 MS. GREENE: Back on the record.

10 BY MS. GREENE:

11 Q. Deputy Chief Bash, I'm going to show you a
12 couple of documents. I'm showing a document right now,
13 it's a two page document, and I'll go to the second page
14 so you could see it. Have you ever seen this document
15 before?

16 A. I believe I have. I think I have something like
17 that that was redacted. I really couldn't tell what it
18 was.

19 Q. And what do you understand this document to be?

20 A. I have no idea.

21 Q. Do you see it's titled "Special Examinations -
22 2012," correct?

23 A. That's what it says, yes.

24 Q. Do you know what that means?

25 A. I don't.

1 Q. We see that the columns indicated on this
2 special examinations table include date, name/rank,
3 appointment date/time and doctor?

4 A. That's what it says, yes.

5 Q. So, you don't know as we sit here whether this
6 is a document generated by the Columbus Division of
7 Police, do you?

8 A. If it were a division of police document, it
9 would have a document number at the bottom and it does
10 not.

11 Q. Okay. So, I see here on the second page that we
12 have Bryan Mason, rank, police officer, with the date of
13 12-20-2012 at noon with Dr. Marzella. Do you see that?

14 A. I do see that.

15 Q. Do you have any idea what that's about?

16 A. I do not.

17 Q. Do you know whether Mason was subject to a
18 psychological exam by Dr. Marzella in 2012?

19 A. I do not.

20 MS. GREENE: I'm going to mark this as
21 Exhibit 3.

22 - - - -
23 (Thereupon, Plaintiff's Exhibit 3 was marked for
24 identification.)
25 - - - -

1 BY MS. GREENE:

2 Q. I'll move on to another document. Do you see
3 the document on your screen now?

4 A. Yes.

5 Q. Do you know what this document is?

6 A. I do not.

7 Q. Have you ever seen this document before?

8 A. I have not seen that document.

9 Q. It's another special examinations list, correct?

10 A. That's what it says at the top, yes.

11 Q. And it's dated special examinations 2013?

12 A. That's what it says, yes.

13 Q. And here this document lists Bryan C. Mason,
14 rank, police officer, with an appointment date of
15 February 5th, 2013 at 9 a.m. with Dr. Douglas, right?

16 A. That's exactly what it says, yes.

17 Q. Do you know anything about whether or not Bryan
18 Mason was subject to a psychological exam with
19 Dr. Douglas on February 5th, 2013 at 9 a.m.?

20 A. I do not.

21 MS. GREENE: Okay. We're going to
22 mark this as Exhibit 4.

23 - - - -

24 (Thereupon, Plaintiff's Exhibit 4 was marked for
25 identification.)

1 - - - -

2 BY MS. GREENE:

3 Q. And for the record, the remainder of this
4 document and the exhibit that I showed you before,
5 Exhibits 3 and 4 are listed that are entirely redacted
6 but for Bryan Mason's name and pertinent information,
7 correct?

8 A. That's what it looks like, yes.

9 Q. Okay. I'm now going to show you another
10 document.

11 - - - -

12 (Thereupon, Plaintiff's Exhibit 5 was marked for
13 identification.)

14 - - - -

15 BY MS. GREENE:

16 Q. Have you seen this document before?

17 A. No.

18 Q. Have you seen documents like this before?

19 A. No.

20 Q. You don't know whether or not this is a document
21 generated by the Columbus Division of Police, do you?

22 A. There's no number on the bottom that would
23 indicate that it was a division of police document.

24 Q. Well, what we have here is -- it looks like a
25 table, right? It doesn't have a title at the top,

1 **correct?**

2 A. I don't see one.

3 **Q. In any case, it does have columns, which are**
4 **dates of PIS/traumatic event, right?**

5 A. That's what it says.

6 **Q. What does PIS stand for?**

7 A. In this, I don't know. We use it as a police
8 involved shooting, but I have no idea what this document
9 means.

10 **Q. But, your experience in the Columbus Division of**
11 **Police the acronym PIS stands for police involved**
12 **shooting?**

13 A. In our's, yes. It does.

14 **Q. And this also has columns of name/rank,**
15 **appointment date/time, doctor, invoice, column 1, and**
16 **date forwarded to BO?**

17 A. That's what it says, yes.

18 **Q. Do you know what BO means in that last column,**
19 **date forwarded to BO?**

20 A. Not in this context, no.

21 **Q. Do you in the CDP, use the acronym BO for**
22 **anything?**

23 A. No.

24 **Q. So, you don't have any guesses as to what BO**
25 **stands for there?**

1 A. I don't want to guess in a deposition, so no.

2 Q. And no one provided this document to you for the
3 purposes of preparing for your deposition today?

4 A. I can't say that, so I'll take a look here and
5 see. Is that BCM XTR 42?

6 Q. While you look, can I ask you another question?
7 This Bate stamp at the bottom is titled BCM XTR,
8 correct?

9 A. I see that, yes.

10 Q. Does that acronym BCM XTR mean anything to you?

11 A. No, it does not. But, I mean, I've got a number
12 of them here, BCM XTR. I'm not seeing that document, so
13 I don't know what that is.

14 Q. All right. On the second page of this document
15 that you haven't seen before, we do see here Bryan
16 Mason, rank of police officer, listed again, right?

17 A. Bryan Mason, PO, yes.

18 Q. And we see there's a date of 9-15-2016, so
19 September 15th, 2016 at 3 p.m., correct?

20 A. Yes.

21 Q. And that's Dr. Douglas in the doctor column,
22 right?

23 A. Could you flip back? Yes. It looks like the
24 doctor column. I think I found it. I've got it here
25 too, but it's labeled differently.

1 Q. What's it labeled for you?

2 A. It's labeled XTR 000042 and 00043 King tracking,
3 is what it's labeled in what I was sent.

4 Q. Okay. And in the last column, which is date
5 forwarded to BO, we have the date of 9-21-2016, right?

6 A. Correct.

7 Q. Now, this appointment with Dr. Douglas happened
8 on September 15th, 2016, and that corresponds with the
9 date on the letter that we viewed earlier on Exhibit 1,
10 correct?

11 A. Okay. I don't have Exhibit 1 open, but I
12 will --

13 Q. I'm happy to show it to you. Looking at Exhibit
14 1 again, and you see here that the stress debriefing
15 listed in this letter was September 15th, 2016?

16 A. Yes.

17 Q. And that's the same date as the appointment date
18 and time listed in Exhibit 5, correct?

19 A. That's the same number listed on this document,
20 yes.

21 Q. Okay. And we see here that Douglas is the
22 doctor listed in the letter here in Exhibit 1, right?

23 A. Correct.

24 Q. And to go back to the tracking sheet, which is
25 going to be Exhibit 5, we see here that, again, this Dr.

1 Douglas, September 16th, 2015 for the appointment,
2 right?

3 A. That's what it looks like, yes.

4 Q. So, it appears that this list in Exhibit 5 is
5 referencing the exam that was the subject of a letter
6 contained in Exhibit 1, correct?

7 A. The dates at least are consistent, yes.

8 Q. Do you know whether or not Mason was ever
9 subjected to any other psychological evaluations other
10 than the ones that we've discussed here today so far?

11 A. I do not have any knowledge of those, no.

12 Q. And with respect to these three exhibits that
13 we've just looked at, Exhibits 3, 4 and 5, the special
14 examinations lists and the table without a title, as you
15 sit here, do you know whether those listed reflect that
16 Officer Mason was subjected to psychological evaluations
17 listed on the dates and times listed on those Exhibits?

18 A. All I know for sure is the one that we got back
19 from Dr. Douglas. I believe you called that Exhibit 1,
20 where the doctor indicated he was evaluated and was okay
21 to go back to duty. That's the only conclusion I have.

22 Q. Have you ever seen any tracking sheets like the
23 ones that we just looked at, Exhibits 3, 4 and 5, with
24 respect to Officers Abel, Narewski, or Baase?

25 A. I have a couple of them here, so I'm going to

1 check that right now. No, I have not.

2 Q. Okay. And you have not seen any other tracking
3 sheets like the ones that we looked at with respect to
4 any additional psychological exams conducted for Officer
5 Mason, correct?

6 A. No, I have not.

7 Q. Okay.

8 MS. GREENE: I want to go off the
9 record for just a moment.

10 - - - -

11 (Thereupon, an off-the-record discussion was held.)

12 - - - -

13 MS. GREENE: Let's go back on the
14 record. So just to be clear, at this point it's
15 Plaintiff's position that documents demonstrating that
16 Baase, Narewski, Abel, and Mason were subjected to
17 psychological evaluations at any point in time, that
18 those documents were requested for production in the
19 Notice of Deposition that we're here today on. And
20 also, that they would respond to the prior discovery
21 requests. And you have represented that the lawyers for
22 the city are attempting to obtain those documents at
23 this time, is that right?

24 MS. DEAN: That's correct.

25 BY MS. GREENE:

1 Q. All right. Let's move on. Deputy Chief Bash,
2 we're going to talk about hiring, discipline, and
3 supervision now. We're moving on to the next topic in
4 the Notices of Deposition in which you are here today to
5 testify on, and this is now going to be topic three in
6 the notices provided in these cases.

7 So, I would like for you to describe for me the
8 hiring process that applied to Keith Abel when he
9 applied to become a CDP officer, please.

10 A. I'm looking at the specifics for him. I
11 apologize. I don't think that I have Abel's documents
12 right here in front of me. For some reason he's the
13 only one that's missing.

14 Q. All right. I'm going to show you a document.

15 A. Okay. Thank you.

16 Q. Okay. Do you see the document on your screen
17 now?

18 A. I do. Thank you.

19 Q. Have you ever seen this document before?

20 A. I don't think so.

21 Q. Do you know what it is?

22 A. It looks like it was noticed that he was removed
23 from the list, and this was Officer Keith Abel, removed
24 from the list for some medical issue.

25 Q. And this is a letter dated August 25th, 1993,

1 **correct?**

2 A. Correct.

3 MS. GREENE: I'm going to mark this as
4 **Exhibit 6.**

5 - - - -

6 (Thereupon, Plaintiff's **Exhibit 6** was marked for
7 identification.)

8 - - - -

9 BY MS. GREENE:

10 **Q. When an officer is removed from the list because**
11 **he doesn't meet the required medical standards as stated**
12 **here, what does that mean?**

13 A. It means there was something in their medical
14 history that would disqualify them based on civil
15 service rules. It could be any number of things. It's
16 not specific there what it is, but it does give you the
17 opportunity to file an appeal if you chose to do that.

18 **Q. And what is the appeal process?**

19 A. In my experience, because I filed an appeal
20 myself, I went to my doctor and had that test done
21 again, and then those results were sent to the civil
22 service commission.

23 **Q. As you sit here today, do you know whether Abel**
24 **appealed this finding?**

25 A. I do not know that, but if I were to put two and

1 two together, I would say that he did because he was at
2 one-time a police officer.

3 Q. But, you don't know any specific information
4 about whether he appealed or what the subject of the
5 appeal was and what the outcome was?

6 A. I do not. Was that subsequently included, the
7 specific diagnosis?

8 Q. It's possible. I have another document that I
9 hope you can tell me whether or not it is.

10 A. Clearly in 1993 I was not involved in the hiring
11 process, so a lot of that is speculation.

12 Q. Okay. I'm going to share with you another
13 document. Do you see this document?

14 A. Yes.

15 Q. What is it?

16 A. Let me read it first. This tells him that his
17 vision report did not meet the standards, so his name
18 has been removed from the police officer eligibility
19 list, and he's not eligible for appeal.

20 Q. It says he failed both vision exams. It seems
21 as though there were two exams that were administered,
22 right?

23 A. It says both vision exams, so yes.

24 Q. Now, if there was no appeal procedure in place
25 or available after this event, do you know how Officer

1 **Abel was able to become an officer?**

2 A. I do know that many current officers who failed
3 the vision test got laser surgery to fix their eyesight
4 so they were able to pass subsequent eye exams.

5 **Q. And you don't know whether --**

6 A. I don't know if Officer Abel did that, but I do
7 know that that was a regular occurrence for people who
8 failed because it had to be some kind of correctable
9 with glasses to a certain extent. If you had worse
10 eyesight you could not get hired, hence the failure of
11 both of those. But the laser eye surgery could correct
12 that so that you wouldn't have to wear glasses.

13 **Q. But, we don't know what happened?**

14 A. We don't have that specific diagnosis, no.

15 **Q. And we don't know how it was that he overcame
16 this removal from the list to be placed back on the list
17 and eventually hired?**

18 A. Well, we also don't know that he was hired from
19 this list.

20 **Q. Where else would he be hired from?**

21 A. He may have taken a subsequent test. He may
22 have tested again, because you can take a civil service
23 test -- now you can take it yearly. I don't know what
24 the standard was then, but he could have taken the civil
25 service test a second time, scored to the point where he

1 went through this process again, and was able to then
2 pass the test.

3 **Q. All right.**

4 A. Civil service may be better able to answer that
5 question, since they're the keeper of the tests.

6 **Q. Okay. Do you know anything about the hiring**
7 **process as applied to Bryan Mason, John Narewski or**
8 **Matthew Baase?**

9 A. I do have some background investigations there,
10 yes. But, again, they were all hired well before I was
11 in the position to be involved in the hiring process.

12 **Q. Do you know whether anyone -- strike that. For**
13 **these officers, did they all undergo polygraph**
14 **examinations as part of their hiring process?**

15 A. Let me take a look and confirm. I see Officer
16 Baase is scheduled for his polygraph. A letter that was
17 sent on October the 4th, 1999. I'm looking for the
18 results here, but I don't see those specifically. I
19 found some of Abel's documents. These old files have
20 information tucked away not quite as orderly as what we
21 do today. I do not see his polygraph results. I see he
22 was invited to take his polygraph.

23 **Q. So, presumably he was subjected to a polygraph,**
24 **but you don't know for sure as you sit here right now?**

25 A. Right. I don't have the document that tells me

1 that he passed, or the summary in there.

2 **Q. Or any indications about whether or not he was**
3 **truthful?**

4 A. Right. There's no evaluation in there that I
5 could find. So I'm looking through the Narewski now.
6 Again, I can't attest to how these files were put
7 together back in 1993, or whatever this was. Here we
8 go. We have a polygraph summary for Narewski.

9 **Q. What's the Bate stamp on that polygraph summary?**

10 A. The polygraph summary was created on the 25th of
11 September, 2000.

12 **Q. Is there a stamp at the bottom of the page with**
13 **a title and a number? I just want to know if I can find**
14 **what you're looking at right now.**

15 A. Actually, it's amongst Narewski's background
16 file.

17 **Q. And what's the stamp at the bottom of the page?**
18 **What's the number down there?**

19 A. There's not.

20 **Q. In this case, are there any indications in the**
21 **document that you're looking at right now, that Narewski**
22 **exhibited any signs of dishonesty?**

23 A. The box that said no deception -- let me get the
24 direct quote for you here. So, the bottom of page two
25 says, "No deception indicated," and that box is marked.

1 Q. Okay. What page on the background file are you
2 looking at? I mean, it's 84 pages long, right?

3 A. Yeah. Look at page 35.

4 Q. All right. I'm going to extract this and make
5 this a document. Is this the document that you were
6 looking at?

7 A. That's the front page of the document, yes.
8 There you go, yes.

9 Q. So, as far as you're aware, beyond what's in
10 this document here, are there any other indications in
11 the hiring process concerning Narewski's honesty or
12 dishonesty?

13 A. Well, I have not read this package word for
14 word, so I can't tell you that. I see that the
15 polygraph says, "no deception indicated," but I've not
16 read nor memorized this entire background package, no.

17 MS. GREENE: I'm going to mark this as Exhibit
18 7, this Narewski polygraph summary.

19 - - - -

20 (Thereupon, Plaintiff's Exhibit 7 was marked for
21 identification.)

22 - - - -

23 BY MS. GREENE:

24 Q. Okay. I want to come back to this in a little
25 bit, but for right now I want to move on to a couple of

1 **other questions regarding supervision. Can you explain**
2 **to me what supervisory systems are in place?**

3 A. So there are a number of supervisory systems in
4 place. Are you talking about like in the academy?
5 There's supervisory situations where officers supervise
6 recruits. Once they graduate from the academy there's a
7 sergeant who is the direct supervisor of a number of
8 officers depending upon their job. A lieutenant then is
9 in charge of supervising sergeants. A commander
10 supervises a group of lieutenants. And a deputy chief
11 supervises a group of commanders and/or a bureau of
12 managers. And then, ultimately the chief supervisors
13 his direct reports, being deputy chiefs and some others.

14 **Q. It sounds to me like you're describing what**
15 **other witnesses from the division have called the chain**
16 **of command, is that right?**

17 A. That's true, yes.

18 **Q. And so, supervision of officers occurs through**
19 **the chain of command system, right?**

20 A. Correct.

21 **Q. Are there any other systems through which**
22 **supervision occurs within the division of police?**

23 A. You'll have to define the word supervision and
24 maybe I can better answer that question for you.

25 Because we're evaluated by the people that we deal with

1 every day, whether it be a citizen or peers look at us
2 and say, "hey." So, we're evaluated regularly, but we
3 only have one direct supervisor for a unit of command.
4 Everybody should only have one person that is their
5 direct supervisor.

6 **Q. And what are the purposes of that supervision**
7 **through that one direct supervisor?**

8 A. The role of a supervisor, if that's what you're
9 getting at, is to enable an officer to perform their
10 function to the best of their ability with the resources
11 that they need to perform their function.

12 **Q. Any other roles of a supervisor?**

13 A. Well, certainly ensuring that they are doing
14 their job and doing their job within the parameters of
15 the law and the policies.

16 **Q. And how does a supervisor ensure that an officer**
17 **is doing their job and doing it within the parameters of**
18 **the law and policies?**

19 A. Well, thorough investigations through direct
20 contact, direct observation, follow-up and
21 communication. There are a number of ways to try to
22 maintain that connection to ensure, to the best of their
23 ability, that an officer is doing exactly what they're
24 supposed to be doing in accordance with the law and
25 policy.

1 Q. Supervisors are not present with their
2 subordinate officers at all times, correct?

3 A. That's correct.

4 Q. So, in order to make those determinations about
5 whether or not an officer is doing their job within the
6 law and policy, a supervisor is reliant upon either
7 information that's reported to them or that they
8 directly observed, right?

9 A. Correct.

10 Q. And supervisors cannot possibly be aware of
11 everything that an officer does at all times, right?

12 A. That's correct.

13 Q. So, it's a necessary feature of the system that
14 supervisors do not have the capacity to ensure that
15 officers are doing their jobs within the law and
16 policies at all times, right?

17 A. That's certainly not exclusive to police
18 functions. I don't think any supervisor is constantly
19 watching their subordinates. So, yes. That's the
20 nature of supervision.

21 Q. What types of systems or checks are in place in
22 the CDP to ensure that supervisors receive information
23 about their subordinate officers when they're not
24 performing their jobs within the law and the policies of
25 the department?

1 A. I'm not sure I specifically understand your
2 question. Supervisors will get information about
3 complaints of misconduct from citizens. They can get
4 information from the officer's peers. They can get
5 information from other division employees, and that can
6 be both positive and negative. This person is doing a
7 good job or a poor job. So, there's quite a number of
8 different sources of information for a supervisor to
9 have.

10 **Q. These are potential sources of information that**
11 **we're talking about, right?**

12 A. Correct.

13 **Q. Are there any systems in place to ensure that**
14 **supervisors are provided or have access to information**
15 **from all of those sources on a regular and ongoing**
16 **basis?**

17 A. Can you ask that question again?

18 **Q. Are there any systems in place to ensure that**
19 **supervisors are provided information from those various**
20 **sources that you just named in order to conduct their**
21 **supervisory duties on a regular and ongoing basis?**

22 A. I noted citizens, and no, there's no mechanism
23 for citizens to regularly contact supervisors to give
24 them information about subordinates. There's no
25 mechanism for peers to regularly contact a supervisor to

1 provide information on another person. So, as far as
2 the sources that I mentioned before, no, there's not a
3 regular mechanism in place for them to have
4 communication about an officer. Correct.

5 **Q. For the purposes of supervision, how do CDP**
6 **supervisors consider, if at all, citizen complaints in**
7 **the process of supervision? How do they use them?**

8 A. So, right now, frontline supervisors see a
9 completed investigation of these citizen complaints. So
10 they evaluate the officer's behavior based on that
11 complaint and based on the totality of the
12 investigation.

13 **Q. And when you say, "evaluate their behavior based**
14 **on the totality of the investigation," what do you mean?**

15 A. I guess I could give you an example. If a
16 citizen complains that this officer was rude and
17 discourteous to them, and Internal Affairs has an
18 interview with the complainant, an interview with the
19 officer, and then a review of the body camera footage
20 that's in existence most of the time, then that
21 frontline supervisor can evaluate whether that officer
22 truly was rude or discourteous, or if there was anything
23 else that needs to be addressed, either positive or
24 negative with the officer's behavior.

25 **Q. When lawsuits are filed against officers, are**

1 **those considered in a supervisory process?**

2 A. If the supervisor knows about it, but not
3 necessarily part of their evaluation process, no.

4 **Q. Do all lawsuits related to police duties come to**
5 **the attention, or are they provided for the**
6 **consideration of supervisors?**

7 A. So, an officer who is served sends a letter up
8 the chain of command usually requesting representation
9 from the city attorney's office, so they'll have that
10 information that an officer is being sued out of a
11 particular incident.

12 **Q. Do you supervisors take into account any of the**
13 **allegations contained in those lawsuits in their**
14 **supervision of that subordinate officer?**

15 A. I can't speak for those other supervisors. I'm
16 sorry.

17 **Q. Is there not a standard practice or supervisory**
18 **function within the division to consider allegations**
19 **contained in lawsuits in the supervision process?**

20 A. That's not specifically enumerated, no.

21 **Q. And we talked briefly about citizen complaints a**
22 **moment ago. Are those always considered in the**
23 **supervision process?**

24 A. I can't answer for everyone in saying always.
25 Frontline supervisors see those and read those and

1 they're required to act upon those. They make their
2 recommendations to the next step of supervision. I
3 can't say the word always in every one, but I do know
4 that they have that information.

5 **Q. All citizen complaints then are conveyed to**
6 **supervisors, is that right?**

7 A. Well, not all citizen complaints, because if a
8 citizen complains of something that's not misconduct,
9 then, that information would not be investigated. So,
10 if a citizen complained about my haircut, then that's
11 not going to go to my supervisor because that's not
12 misconduct. So, it's only complaints of misconduct
13 based on the law or our policies.

14 **Q. Okay. What about complaints or allegations**
15 **lodged by one officer against another officer, are those**
16 **provided to direct supervisors to use in the process of**
17 **supervision of a subordinate?**

18 A. They're made aware of that. That complaints
19 will be investigated usually by Internal Affairs.
20 Sometimes even by the chain of command depending upon
21 what the allegation is, and they'll be aware of it. I
22 think a supervisor would pay attention to that
23 allegation and certainly put it into the totality of the
24 situation to determine whether there's consistencies or
25 inconsistencies there. But, all of those were taken

1 into consideration when evaluating an officer and
2 helping them do their jobs the best they possibly can
3 do.

4 **Q. Are all complaints or allegations by officers**
5 **against other officers provided to supervisors, or is**
6 **there some benchmark that they have to meet in order to**
7 **be provided to the supervisor?**

8 A. Again, it's based on misconduct. So, there has
9 to be some allegation that there is violation of the law
10 or of our rules, and not just that his mustache is too
11 long, or something foolish like that. We have a
12 parameter or a set of standards that have to be met.
13 So, yes. If there's a complaint that is a complaint of
14 a violation of one of our policies or directives or a
15 violation of the law, that supervisor would know that.

16 **Q. In the event that an officer maybe doesn't file**
17 **an actual written or formal complaint against another**
18 **officer, but has otherwise voiced some kind of an**
19 **allegation that would rise to the level of violation of**
20 **policy or law, does that come to the attention or**
21 **brought to the attention of supervisors?**

22 A. So, our policy indicates that if you have any
23 knowledge of misconduct you're obligated to put pen to
24 paper and advise your supervisor of that misconduct in
25 writing. That would be a requirement. If you say that

1 this officer is doing this, and it's misconduct and
2 violation of our policy, you'll then be directed to put
3 pen to paper, put that allegation in writing, and
4 forward that up your chain of command. So, yes. That
5 other supervisor will eventually know that.

6 **Q. Does it happen in the division of police that**
7 **officers know about misconduct by other officers and**
8 **don't put pen to paper and file a written complaint?**

9 A. It better not.

10 **Q. Have you ever known it to happen?**

11 A. Have I known it to happen? I've never known it
12 to happen that it never made pen to paper, because as
13 soon as I knew about it, I require it is made pen to
14 paper. I can't tell you there's never been a time where
15 there was misconduct that wasn't reported, because if I
16 knew about it, it gets reported. Does that make sense?

17 **Q. Yes. And you're talking about officers in your**
18 **chain of command ordering them to put it to pen to**
19 **paper, right?**

20 A. Right. But if, at any time, if an officer tells
21 me of misconduct and they don't want to put it pen to
22 paper, they don't have a choice. You're telling me of
23 misconduct, we're putting pen to paper.

24 **Q. But, you could only speak about your own**
25 **practices?**

1 A. I can only speak to the information that I have.
2 I can't answer a question that's hypothetical, has this
3 ever happened. I can't answer that question.

4 Q. As you sit here today, you don't know whether or
5 not all other supervisors in the same or similar
6 position as you have hear about misconduct and also then
7 require that officer --

8 A. I can't answer that question. I do not have
9 that knowledge.

10 Q. Okay. And I know it's getting late in the day
11 here, but let me finish my question before you start
12 talking. In terms of these things that we've just
13 discussed, the information coming to the attention of
14 supervisors, are these things documented or tracked in
15 any database or written compilation of information?

16 A. Yes. When there is a complaint it makes pen to
17 paper, that does ultimately end up in our Internal
18 Affairs and it's documented in an Internal Affairs
19 database, yes.

20 Q. Okay. And that includes what kind of
21 complaints?

22 A. Are you still referring to internal?

23 Q. Yeah.

24 A. So, that could include a complaint that somebody
25 is rude and discourteous. It could include a complaint

1 that -- well, any violation.

2 Q. Let me clarify. What I'm asking is, are you
3 talking about citizen complaints only right now, or are
4 you talking about lawsuits filed against an officer, or
5 complaints lodged by one officer against officer, other
6 categories? What type of complaints are documented in
7 that Internal Affairs database?

8 A. So, a lawsuit filed against an officer, in my
9 experience, lawsuits filed against officers are often
10 just a follow-up to what's been a complaint or an
11 investigation already completed by the division of
12 police. I've not seen a lawsuit filed, and there may be
13 some, that did not stem from some other investigation,
14 whether it be use of force investigation, a citizen
15 complaint investigation, or some other misconduct
16 investigation. So, if there was a lawsuit filed, and we
17 had no other indication that there was an investigation
18 done by the division of police, then that certainly
19 would prompt an investigation. But I've never seen
20 that.

21 Q. Okay. How are performance evaluations conducted
22 within the CDP?

23 A. Annually there are performance evaluations that
24 the direct supervisor needs to complete with their
25 subordinates.

1 **Q. And what's the process for that?**

2 A. It's a matrix, and 90 days before their birthday
3 the supervisor gets a prompt from human resources to
4 evaluate and take a look at all of the different areas
5 of evaluation to determine if there's any development
6 needed. If there is development needed in any of these
7 areas, the supervisor is obligated to have a conference
8 with the officer and set up a work plan. If there are
9 no areas of concerns, the supervisor signs that and
10 sends that off. And then, 90 days within the employee's
11 birthday they go over their evaluation. I think it's
12 now ten different categories of what officers are
13 expected to do and how well they do them, and they do
14 that every year.

15 **Q. Are citizen complaints reviewed as part of the**
16 **performance evaluation process?**

17 A. Not always. It depends on how often that
18 supervisor changes. Unfortunately, an officer could
19 have a number of different supervisors throughout a
20 given year. That new supervisor may not have had the
21 opportunity to review every citizen complaint before
22 they saw its disposition, but it is available for them
23 to do that.

24 **Q. Are they required to look at those as part of**
25 **the performance evaluation?**

1 A. No.

2 Q. So, what about lawsuits filed against officers,
3 are those included as part of the performance evaluation
4 process?

5 A. That's not one of the criteria, no.

6 Q. So, lawsuits filed against an officer is not
7 considered for the purpose of an annual performance
8 evaluation?

9 A. That's correct.

10 Q. What about complaints lodged by one officer
11 against another, are those considered for the purpose of
12 a performance evaluation process?

13 A. Just as the citizen complaints, they are
14 available to the frontline supervisor to be reviewed in
15 the Internal Affairs file.

16 Q. But, it's not required?

17 A. No. It's not required, but it would be in the
18 same location as a citizen complaint.

19 Q. Now, are officers who are conducting performance
20 evaluations in their capacity as supervisors, are they
21 trained that they should look for citizen complaints or
22 fellow officer complaints as part of that performance
23 evaluation?

24 A. So, supervisors who are trained to do that are
25 trained to look for every piece of information they can

1 get to help them properly provide feedback to their
2 subordinates. So, that could include citizen
3 complaints. That could include traffic accidents. We
4 have an early warning system. There's any number of
5 things that they could have access to.

6 **Q. Okay. But, they're not trained that they're**
7 **mandated to --**

8 A. They're not required to do so, no.

9 **Q. Let me finish my question first. So, then you**
10 **mentioned early warning system. I assume you're**
11 **referring to EARS, right?**

12 A. Right.

13 **Q. Does EARS have any affect on performance**
14 **evaluations?**

15 A. It could, yes.

16 **Q. But not necessarily?**

17 A. Well, if an officer is not referred in EARS and
18 the EARS committee determines there's no pattern of
19 problematic behavior, that would not be a problem in the
20 evaluation.

21 **Q. Are supervisors required to consider information**
22 **contained in citizen complaints, fellow officer**
23 **complaints, or the EARS system for the purpose of**
24 **observing and supervising that officer on an ongoing**
25 **basis?**

1 A. I don't know that we have a document that tells
2 them that that's what they have to do. So, as a
3 supervisor, you take all the information that's
4 available to you, and you use that in enabling officers
5 to do the best job that they can possibly do, but I
6 don't believe that we have a document that tells them
7 these are the 18 things you have to read every day to
8 evaluate.

9 Q. How about with regard to supervisors; and as we
10 discussed before, they have discretion to look or not
11 look for those citizen complaints, fellow officer
12 complaints, or EARS system tags or outcomes, right?

13 A. Correct. They do have discretion as to how much
14 additional research they're going to do during their
15 evaluation period, yes.

16 Q. And if they don't look at those documents, then
17 they're limited to their own direct observations for
18 what has been directly reported to them for the purpose
19 of supervision, right?

20 A. Or having read other investigations. So,
21 there's other outside stimuli. But you're right,
22 they're certainly very dependant upon their own direct
23 observations.

24 Q. Okay. Does the CDP supervisor structure detect
25 officers who are frequently the subject of complaints?

1 A. Yes.

2 Q. And how does it do that?

3 A. That's our EARS systems, the early warning
4 system. I'm sorry. I don't remember what the acronym
5 stands for.

6 Q. That's fine. We can just say EARS. EARS is the
7 only structure in place for the CDP to track or detect
8 officers who are frequently the subject of complaints,
9 right?

10 A. It is the formal system in place to do that,
11 yes.

12 Q. And detecting officers who are frequently the
13 subject of complaints is not a formal part of the chain
14 of command supervision process, correct?

15 A. It's part of the EARS process, and the EARS
16 process is part supervision. So, I don't think that you
17 can necessarily separate those two.

18 Q. So, do direct supervisors have a duty to detect
19 officers under their supervision that are frequently the
20 subject of complaints?

21 A. Yes.

22 Q. And then, are they required to document or
23 report in any way the frequent complaints about a
24 particular officer?

25 A. Would you repeat that question?

1 Q. Sure. So, let me just turn another direction
2 here. EARS documents patterns of misconduct, or
3 potential patterns of misconduct, right?

4 A. Not necessarily.

5 Q. Okay.

6 A. EARS detects patterns of behavior. It's not
7 necessarily misconduct, but it tracks behavior.

8 Q. Now, are CDP supervisors specifically
9 tasked with tracking officers who are frequently the
10 subject of complaints?

11 A. Outside of the EARS process, no.

12 Q. Okay. So, you mentioned that the performance
13 evaluation can result, if necessary, in a plan being put
14 together for the officer, right?

15 A. That's correct.

16 Q. Are there any other points throughout the year
17 or events that would give rise to a supervisor putting
18 together a plan for a subordinate officer other than the
19 annual performance evaluation?

20 A. Yes.

21 Q. What are those?

22 A. Well, a sergeant can detect in a regular review
23 of reports, because a supervisor is required to review
24 the reports that officers complete. If that supervisor
25 notices a deficiency in the reports he can put together

1 a work plan for that. If a particular supervisor sees a
2 pattern of complaints that come across his desk, because
3 he's required, again, to read those from Internal
4 Affairs, he could put together a work plan based on
5 those citizen complaints if he sees a pattern of force,
6 or any pattern at all that he or she finds that could be
7 problematic. He or she has the ability to put together
8 a work plan based on their personal observations.

9 **Q. Is it required that those plans are in writing,**
10 **or may they be verbal, or oral?**

11 A. We encourage them to be in writing, and if
12 they're based on the performance evaluations, they must
13 be in writing. If it's a work plan that I noticed as a
14 sergeant whose subordinate doesn't do a very good job
15 with house searches, I may not put that writing. I may
16 just take him to a couple of houses and practice. There
17 could be any number of ways to be a mentor, or teacher,
18 or supervisor.

19 **Q. In terms of those kinds of events that might**
20 **give rise to a plan being created outside of the**
21 **performance evaluation, if a plan is indeed created, is**
22 **there any requirement that the supervisor either report**
23 **that plan up the chain of command, or that it is**
24 **documented somewhere that a plan was created?**

25 A. If there's a documented work plan, then, yes.

1 If it's a coaching opportunity, then, no.

2 Q. Okay. So, it's possible, for example, that a
3 supervisor notices -- you brought up the issue of house
4 searches. A supervisor notices there's problems with an
5 officer's house search tactics and that supervisor works
6 with the officer, there's just no documentation that
7 that occurs, right?

8 A. Yes. That's very possible.

9 Q. And likewise, it's possible that a supervisor
10 could notice some potential problematic behavior around
11 use of force issues and might work with the officer,
12 that also may not be documented, right?

13 A. That is possible, yes.

14 Q. Okay. And so, then there's no like formal
15 monitoring system with respect to these undocumented
16 plans that are generated, right?

17 A. Right. No formal documentation plan for
18 informal training.

19 Q. Okay. And there's discretion on the part of a
20 supervisor as to what type of plan might be created in
21 response to any of these events that are not part of the
22 annual performance evaluation, right?

23 A. As long as it's done within policy and law.
24 That's the parameters.

25 Q. If there are plans written for an officer that

1 are not part of an annual performance evaluation, where
2 are those written plans stored?

3 A. They would ordinarily be stored in Internal
4 Affairs. That's pretty much the document holding spot
5 for us.

6 Q. Okay. And that's the same place for storing any
7 performance evaluation related plans, right?

8 A. The performance evaluation plans, I believe, are
9 housed in personnel, but I'm not one hundred percent
10 positive.

11 Q. As we sit here today, do you know whether any
12 plans, whether part of the performance evaluation
13 process or otherwise, were ever created for Officer
14 Mason?

15 A. I do not.

16 Q. As you sit here today, do you know whether any
17 plans of any type were created for Officer Abel?

18 A. I do not.

19 Q. Do you know whether any plans of any type were
20 ever created for Officer Narewski?

21 A. I do not.

22 Q. And do you know whether any plans of any type
23 were ever created for Officer Baase?

24 A. I do not.

25 Q. Okay. Can you explain to me what mechanisms, if

1 **any, are in place to inform supervisors of excessive**
2 **force events by their subordinate officers?**

3 A. So, supervisors are tasked with investigating
4 uses of force by their subordinates. If there's an
5 excessive use of force incident, then that supervisor is
6 there investigating it, and they would know because
7 they're investigating it. If there's a use of force
8 incident that occurs during a day where the direct
9 supervisor is not working, that use of force still has
10 to be routed through their direct supervisor. So, the
11 direct supervisor always sees a use of force, whether it
12 be within policy, or not within policy, so they always
13 have knowledge of whether it's, what you would call,
14 excessive use of force or not excessive use of force,
15 they have knowledge of all of them.

16 Q. Okay. We agreed earlier that supervisors cannot
17 be present with an officer at all times, right?

18 A. Correct.

19 Q. And so, in determining whether or not an
20 investigation is even warranted, or whether they are to
21 be informed about an excessive force event, for example,
22 those supervisors are reliant on the reports from an
23 officer, him or herself, or reports of fellow officers
24 or witnesses on the scene, right?

25 A. So, all uses of force are required to be

1 reported. So if there's an unreported use of force
2 that's never reported, then, no supervisor is going to
3 know about that.

4 Q. And likewise, if there was a use of force that
5 was indeed reported, but was not accurately reported,
6 and there's no other information that was provided to
7 the supervisor by the witness, the officer, or fellow
8 officers, then the supervisor still would not know that
9 there was an excessive force event in that kind of
10 situation, right?

11 A. I'm not sure I understand your premise. If
12 there's an excessive use of force situation the person
13 upon which the force was used is not sharing that
14 information? I'm confused.

15 Q. So, for example, in a situation where, let's
16 say, an officer is on the scene alone, he uses excessive
17 force against a person. That person does not file a
18 complaint, and the officer's report of that force event
19 was not accurate and did not reflect that it was
20 indicative of excessive force. In that event, if no one
21 came forward to make a complaint, and the officer never
22 provided any additional information, the supervisor
23 would not ever know that excessive force occurred,
24 right?

25 A. No. Because the sergeant responds to the scene

1 to interview any potential witnesses and the arrestee
2 or whoever the force was used upon. Even if the person
3 doesn't call Internal Affairs later, they're talking to
4 the supervisor now, so --

5 Q. Okay.

6 A. I'm not sure that your premise makes sense.

7 Q. It's true that a lot of people are subjected to
8 force in the process of an arrest, right?

9 A. Some are, yes.

10 Q. And it's true that a lot of people who have been
11 arrested refuse, often at the advice of counsel, to
12 speak to the police about anything surrounding the
13 circumstance related to their arrest, correct?

14 A. Some do, yes.

15 Q. And so, in an event where a person who was
16 subjected to excessive force does not convey any
17 information to the police, even if the police attempted
18 to interview that person, it's possible that an
19 excessive force event may go undetected by a supervisor,
20 right?

21 A. Again, you're asking a hypothetical question. I
22 suppose between body cameras, witnesses, and phones,
23 anything in this world is possible, ma'am. So
24 hypothetically, sure. But, there's a lot of things that
25 could hypothetically happen.

1 Q. Okay. Are lawsuits filed against police
2 officers ever considered for the purpose of discipline?

3 A. Just a lawsuit that's filed against a police
4 officer without any adjudication?

5 Q. Sure.

6 A. Then, no.

7 Q. If there's a lawsuit filed against an officer
8 and an investigation had not previously been conducted
9 with respect to whatever the subject of the lawsuit was,
10 would that spur the CDP to conduct an investigation at
11 that point?

12 A. Yes.

13 Q. And is that true in every situation where a
14 lawsuit is filed?

15 A. When you say, "every" I can't answer that
16 particular question, but that is a notice of misconduct,
17 that's an allegation of misconduct, and if we get that
18 information that a person is alleging misconduct against
19 an officer, then, yes, we start an investigation.
20 That's the policy, that if we find an allegation of
21 misconduct we complete an investigation into that
22 misconduct to the best of our ability.

23 Q. Okay.

24 MS. GREENE: I want to go off the
25 record for a moment to take a short break.

1 - - - -

2 (Thereupon, an off-the-record discussion was held.)

3 - - - -

4 BY MS. GREENE:

5 Q. All right. Deputy Chief Bash, let's talk about
6 Keith Abel, and the supervision of Keith Abel, and
7 discipline of Keith Abel. I'm going to show you a
8 document. Have you seen this document before?

9 A. Yes. I'm looking at it right now.

10 Q. Okay. What is it?

11 A. This is the IAB history printout.

12 Q. And what is an IAB history printout?

13 A. So it's a record of investigations that have
14 been either conducted by IAB or stored in IAB
15 investigations that may have been done by the chain of
16 command.

17 Q. Okay. And I'll mark this as **Exhibit 8**.

18 - - - -

19 (Thereupon, Plaintiff's **Exhibit 8** was marked for
20 identification.)

21 - - - -

22 BY MS. GREENE:

23 Q. You reviewed this document before you came into
24 this deposition today, right?

25 A. I looked at it, yes. I did not memorize it.

1 Q. Fair enough. We're going to look through it and
2 I'm going to ask you to talk about events listed in this
3 document that appear to have given rise to some kind of
4 a finding that a complaint was sustained, founded, or
5 that Officer Abel's actions were considered outside of
6 policy, okay?

7 A. Okay.

8 Q. Okay. So, here we are on the second page of
9 this 24 page document, and at the top of the page we
10 have an event from August 8th, 2013 and it was
11 determined that Abel's actions were outside of policy,
12 right?

13 A. That's what it says, yes.

14 Q. Do you know what this particular IAB history
15 entry is about?

16 A. I do not.

17 Q. Do you know whether Abel was disciplined for
18 whatever happened here on August 8th, 2013?

19 A. I do not.

20 Q. Okay. Here we are on the fourth page of this
21 document. Here we have a series of events and one is
22 listed as February 6th, 2015, the other two are listed
23 as February 16th, 2015. The first two relate to James
24 Michael England, the bottom one has a complainant of
25 Lieutenant Jeffery Lokai, right?

1 A. Yes.

2 Q. And can you tell me looking at this document
3 whether in particular this third entry at the bottom of
4 the page complainant, Lieutenant Lokai, whether that is
5 related to the above two entries?

6 A. I cannot tell you unequivocally. But, I would
7 conclude, yes. But, I can't tell you specifically why.
8 That would probably be in the complete shooting package.

9 Q. Okay. And in the third entry the address for
10 the event is 120 Marconi Boulevard. That's the division
11 of police headquarters, right?

12 A. That's correct.

13 Q. Okay. And as we sit here today, do you know the
14 disciplinary outcome, if any, from the events on this
15 page?

16 A. Well, there wouldn't be any discipline on the
17 intentional and not in violation of policy, and there
18 wouldn't be any discipline on a within policy use of
19 force.

20 Q. Are you familiar with any discipline that Keith
21 Abel received in relation to the shooting of James
22 England?

23 A. I don't see any here on the list.

24 Q. And as we sit here independently from this list,
25 are you aware of the disciplinary process and outcome

1 with respect to the shooting of James England by Keith
2 Abel?

3 A. I believe that that police involved shooting was
4 found not in violation of policy, so there would be not
5 any discipline.

6 Q. Are you aware that the chain of command
7 recommended discipline and that the chief overturned
8 that recommendation?

9 A. I do remember that, yes.

10 Q. And what do you remember about that?

11 A. Boy, it's been so long ago. But my personal
12 recollection is that the chief disagreed with the chain
13 of command that it was intentional and not in violation
14 of policy, and I believe it was the Firearms Review
15 Board thought it was a violation of policy.

16 Q. Do you remember how you learned that
17 information?

18 A. I don't know if it was the Firearms Review Board
19 at the time, or I just relinquished it to a fellow
20 deputy chief that had a question about it. But I do
21 remember having knowledge of it, but not being directly
22 involved in it.

23 Q. Do you remember any statements from any of the
24 officers who recommended a finding of outside of policy
25 in relation to the chief's reversal of that

1 **recommendation?**

2 A. No, I do not.

3 **Q. Okay. We're going to continue through this**
4 **document. There's a number of events listed here.**

5 A. Okay. That's a different document than I have
6 here.

7 **Q. Okay. Well, this portion of the document starts**
8 **on page six. Have you ever seen this document before?**

9 A. I just have five pages. I don't have 19 pages
10 for Officer Abel.

11 **Q. I'm showing this to you now. Have you ever seen**
12 **what's on the screen here, which is part of my Exhibit**
13 **8? Have you seen this before?**

14 A. No. I've not seen this one before.

15 **Q. Is this a different type of document than the**
16 **first five pages that we looked at, or is it the same**
17 **kind of document, different format?**

18 A. It seems to be a similar document, but, again, I
19 don't have that document in front of me. It may have
20 been generated by a different database, but I don't
21 currently have that one.

22 **Q. Okay. In any case, you're here today to testify**
23 **about discipline of Officer Abel as one of the**
24 **designated topics, right?**

25 A. Right.

1 Q. I'm going to ask you some questions about this
2 document. If you look here on page six, it says right
3 underneath the header "Citizen Complaints and Internal
4 Investigations," do you see that there?

5 A. I do.

6 Q. Does that mean that everything following that
7 heading is either a citizen complaint or an internal
8 investigation?

9 A. Correct.

10 Q. Okay. So, I'm going to take us to the tenth
11 page of this document in Exhibit 8, and we'll look at
12 these two, I guess, squares, or fields, on the page that
13 I think are associated with each other. And I'm talking
14 about the square that has incident number 200304-0122
15 and the square below that says, "Application, Citizen
16 Complaints, Tonya Lynchfield." Do you see those?

17 A. Yes.

18 Q. Are those two squares in association with each
19 other?

20 A. I don't know the answer to that question.

21 Q. I ask because if we go back to page six, it
22 appears there's an incident number square first, and
23 then the one that follows is a description of the
24 incident with more pertinent details, is that right?

25 A. Yes. That seems consistent with this format,

1 but this is a strange format that I've not seen the
2 boxes of different incidents in different boxes. It
3 seems consistent with those two boxes, yes.

4 Q. Okay. So, returning back to the tenth page of
5 this document, which is Bate stamped GB14, I see here
6 that the disposition of whatever this event was is
7 sustained, correct?

8 A. Yes.

9 Q. And the event near the incident --

10 A. I couldn't hear you.

11 Q. The incident that was considered sustained took
12 place on April 18th, 2003, correct?

13 A. Yes. That's what it says.

14 Q. Do you know the subject or the issues arising in
15 relation to this April 18th, 2003 event?

16 A. I do not.

17 Q. Do you know whether or not Abel was disciplined
18 in relation to this event?

19 A. I do not.

20 Q. We'll go to the next page. Here in
21 approximately the middle of the page we have incident
22 200303-0041, which also resulted in a disposition of
23 sustained, correct?

24 A. That's what it says, yes.

25 Q. And that was concerning an incident on February

1 **25th, 2003?**

2 A. Yes.

3 **Q. Do you know anything about the subject or events**
4 **giving rise to this entry here?**

5 A. No, I do not.

6 **Q. Do you know whether Abel was ever disciplined in**
7 **relation to this?**

8 A. No, I do not.

9 **Q. Okay. On the page stamped GB18 at the bottom**
10 **there's another event where it appears as though Abel's**
11 **conduct was determined to have been outside of policy,**
12 **correct?**

13 A. That's what it says, yes.

14 **Q. And that's in relation to incident 201406-0012?**

15 A. Yes.

16 **Q. For an incident on August 8th, 2013, right?**

17 A. Yes. That's what it says there.

18 **Q. Do you know anything about the events giving**
19 **rise to this entry?**

20 A. I do not. However, it does say "information
21 only," so what I don't know for sure is whether or not
22 this officer was directly involved in the incident. So
23 were other officers outside of policy? I can't tell
24 from this entry what other things were going on during
25 this incident.

1 Q. And you don't know whether or not Abel was
2 disciplined with regard to this event, do you?

3 A. I do not know, no.

4 Q. Okay. I'm going to take us through to the end
5 of the document. And so, in total we have 24 pages of
6 Internal Affairs history in Exhibit 8, right?

7 A. I see 19 pages.

8 Q. 24 pages in total. We had the first five, and
9 then the next 19.

10 A. Okay. Sure.

11 Q. Okay. In these pages, and this is a little
12 complicated because apparently you haven't looked at
13 this document before, but you don't know how many of
14 these were for use of force events, do you?

15 A. I do not.

16 Q. Do you know how many of these pertain to Abel
17 using deadly force?

18 A. I do not.

19 Q. Do you know how many of these entries pertain to
20 Abel engaging in conduct involving deceit or dishonesty?

21 A. I do not.

22 Q. Can you please describe to me your knowledge of
23 Keith Abel's disciplinary history in the CDP?

24 A. Just from what I see in this document.

25 Q. And you don't know anything other than that?

1 A. No.

2 Q. Do you know whether Keith Abel has ever received
3 a negative performance evaluation?

4 A. I do not know that.

5 Q. Did you review his performance evaluations in
6 preparation for this deposition?

7 A. No, I did not.

8 Q. Okay. Abel did not receive a negative
9 performance evaluation in association with the shooting
10 of James England, did he?

11 A. I do not know the answer to that question.

12 Q. Okay. We'll move on to Matthew Baase. Can you
13 please describe to me your knowledge of Baase's
14 disciplinary history?

15 A. I have Officer Baase's IAB printout right here
16 in front of me.

17 Q. As we sit here today, do you know independently
18 about Baase's disciplinary history?

19 A. Not without looking at this document, no.

20 Q. So, your knowledge of Baase's disciplinary
21 history is limited to what's contained in his IAB
22 history?

23 A. That is correct.

24 Q. How long is the IAB history that you have in
25 front of you? How many pages is it?

1 A. It's 44 pages of PDF.

2 Q. Okay. Let me just ask this too with respect to
3 Abel. You have no independent knowledge of his
4 disciplinary history other than what's contained in his
5 IAB history?

6 A. That's correct.

7 Q. Did anyone direct you to prepare to testify
8 about the discipline of either of these two officers?

9 A. No more than just what's in the IAB, no.

10 Q. And did anyone direct you to prepare to testify
11 to the discipline of Narewski or Mason prior to the
12 deposition?

13 A. Just what's --

14 MS. DEAN: I'm just going to object.
15 The people that would have done that would have been his
16 attorneys, so I think that would be privilege, but I
17 guess he already answered.

18 BY MS. GREENE:

19 Q. You understand that as a 30(b)6 witness for the
20 City of Columbus you had a duty to be prepared on the
21 topics in which you were designated to testify about,
22 correct?

23 A. Could you repeat that again?

24 Q. You understand that as a Federal Rule of Civil
25 Procedure a 30(b)6 witness offering binding testimony on

1 **behalf of the City of Columbus, you had a duty to be**
2 **prepared to testify on the topics for which the city**
3 **designated you as their witness, correct?**

4 A. Yes.

5 Q. And one of the topics that you were designated
6 to testify on was the discipline of Baase, Narewski,
7 Mason, and Abel, correct?

8 A. Yes.

9 Q. And did you undertake anything other than
10 reviewing these IAB history documents that we've
11 referenced to prepare to testify about that topic?

12 A. I reviewed the IAB history. That's correct.

13 Q. And nothing else, right?

14 A. That's correct.

15 Q. And the IAB history does not provide enough
16 information for you to give comprehensive testimony
17 about the disciplinary history of these officers, does
18 it?

19 A. I'm not sure I understand your question.

20 Q. The IAB history documents that you're
21 referencing do not provide information enough that would
22 allow you to testify comprehensively about the
23 disciplinary history of these officers, right?

24 A. The IAB database does not provide enough
25 adequate information to answer your questions.

1 Q. Okay. Does the IAB database provide you with
2 information on whether or not the officers received
3 discipline in relation to the events noted in the IAB
4 history documents?

5 A. It does for some, yes.

6 Q. But, not for all, right?

7 A. Just those in accordance with the collective
8 bargaining agreement.

9 Q. Okay. So, I'm going to show you another
10 document, which I believe is the same thing that you've
11 pulled up for your own reference. Please let me know if
12 that's the case. I have a 44 page document titled at
13 the top, "Division of Police Internal Affairs Bureau
14 Employee Report For Baase, Matthew J." Is this the same
15 document that you were looking at?

16 A. It appears to be, yes.

17 Q. We're going to mark this as Exhibit 9.

18 - - - -

19 (Thereupon, Plaintiff's Exhibit 9 was marked for
20 identification.)

21 - - - -

22 BY MS. GREENE:

23 Q. And this is a 44 page PDF, just like the one
24 that you were reviewing a moment ago, correct?

25 A. It appears to be, yes.

1 Q. Okay. So, on this very first page, the second
2 entry for IAB number 200202-0026. Do you see that one?

3 A. Yes, I do.

4 Q. For an event occurring on January 20th, 2002.
5 The allegation against Baase with respect to that event
6 was sustained, right?

7 A. That's what it says, yes.

8 Q. Do you know anything about the events giving
9 rise to this entry in the IAB history for Baase?

10 A. No. That would be beyond the records retention.

11 Q. Do you know whether or not Baase was disciplined
12 for this event?

13 A. That would also be beyond the records retention.

14 Q. I'm asking whether you know, not whether the
15 documents were retained.

16 A. No, I do not know.

17 Q. And you don't know the events giving rise to
18 this entry, right?

19 A. That's correct. I do not know.

20 Q. Okay. We're going to continue through this
21 document. All right. We're now at the 11th page of
22 this 44 page document. I'm looking at the square at the
23 top of the page, IAB number 201107-0065. Do you see
24 that one?

25 A. I do.

1 Q. For an event happening on July 13th, 2011?

2 A. That's what was written here, yes.

3 Q. And we see that whatever the allegation was it
4 was deemed sustained, correct?

5 A. That's what it says, yes.

6 Q. Do you know about the events giving rise to this
7 entry?

8 A. No, I do not.

9 Q. Do you know whether or not Baase was disciplined
10 for the events giving rise to this entry?

11 A. No, I do not.

12 Q. I'll just note here, we see this heading in the
13 middle of the page that says, "Use of Force/Chain of
14 Command Investigation?"

15 A. Yes.

16 Q. Everything that follows that pertains to a use
17 of force or chain of command investigation, is that
18 right?

19 A. That should be correct, yes. Or at least until
20 the next heading occurs.

21 Q. Understood. Okay. Here we are on page 16 of
22 this 44 page document, and at the bottom of the page we
23 have IAB number 200212-0159. Do you see that there?

24 A. Yes, I do.

25 Q. And this pertains to an event occurring on

1 December 16th, 2002, which was deemed outside of policy,
2 correct?

3 A. That's what's written there, yes.

4 Q. Do you know about the events giving rise to this
5 entry?

6 A. No, I do not.

7 Q. Do you know whether or not Baase was disciplined
8 for the events giving rise to this entry?

9 A. No, I do not.

10 Q. Presumably this involved a use of force event
11 because it follows that use of force/chain of command
12 heading, correct?

13 A. Probably so, yes.

14 Q. All right. We'll continue. Here we are on the
15 19th page, and at the top of the page we have an event
16 IAB number 200308-0201, incident date of July 12th,
17 2003, correct?

18 A. That's what it says, yes.

19 Q. And this event was also deemed to be outside of
20 policy, correct?

21 A. Yes.

22 Q. And it followed that use of force/chain of
23 command heading, so presumably it falls under those
24 categories, right?

25 A. Possibly, yes.

1 Q. Do you know about the events giving rise to this
2 entry?

3 A. No, I do not.

4 Q. Do you know about whether Baase was disciplined
5 in relation to this entry?

6 A. No, I do not.

7 Q. Okay. Here we are on the 25th page. In the
8 middle of the page, IAB number 200412-0170 for an
9 incident dated November 5th, 2004. Do you see that
10 entry?

11 A. Yes, I do.

12 Q. That event was deemed outside of policy?

13 A. That's what's written, yes.

14 Q. And, again, it's following the use of
15 force/chain of command heading, so it falls under those
16 categories, is that right?

17 A. It is under that category, yes.

18 Q. And as we sit here today, do you know about the
19 events giving rise to this entry?

20 A. No, I do not.

21 Q. Do you know about whether or not Baase was
22 disciplined for these events?

23 A. No, I do not.

24 Q. Okay. Here we are on the 35th page, and we have
25 two entries, the middle and bottom of the page. The

1 first one is IAB number 200809-0280 for an incident on
2 September 16th, 2008. Do you see that?

3 A. Yes, I do.

4 Q. And this is still under the heading of use of
5 force/chain of command, right?

6 A. Well, the action is different, but, yes. I
7 believe it's still under that heading.

8 Q. And there's a finding of outside of policy,
9 correct?

10 A. What number again was that?

11 Q. 200809-0280?

12 A. Yes. That's what it says.

13 Q. Do you know about the events giving rise to this
14 entry?

15 A. No, I do not.

16 Q. Do you know whether or not Baase was disciplined
17 for the events giving rise to this entry?

18 A. No, I do not.

19 Q. Let's look at the one underneath it. We have
20 IAB number 200812-0173 dated December 2nd, 2008. Do you
21 see that?

22 A. I do see that.

23 Q. We have another finding of outside of policy
24 conduct, correct?

25 A. I do see that, yes.

1 Q. And as we sit here today, do you know what the
2 events giving rise to this entry were?

3 A. No. But I also see that the complaint is a
4 Sergeant Matt Baase, so I'm not sure what this entry
5 would mean.

6 Q. So, you have no idea whether he was the subject
7 of the finding, or solely the complainant. It's not
8 clear based on this document what the finding is
9 pertaining to Baase, right?

10 A. That is correct.

11 Q. And as you sit here today, you have no knowledge
12 of the events giving rise to this entry, correct?

13 A. That's correct.

14 Q. And you don't know whether or not Baase was
15 disciplined in relation to these events, correct?

16 A. That is also correct.

17 Q. Okay. So, we've reached the end of that
18 document. Beyond what we've looked at in Exhibit 9,
19 what other knowledge do you have about any discipline
20 that Baase has been given over the course of his
21 employment with the CDP?

22 A. I have no additional.

23 Q. And Baase has never received a negative
24 performance evaluation, correct?

25 A. I don't know the answer to that question.

1 Q. Okay. Moving on to Officer Narewski. I'm
2 sharing a document with you. Have you seen this
3 document before?

4 - - - -

5 (Thereupon, Plaintiff's Exhibit 10 was marked for
6 identification.)

7 - - - -

8 A. Yes, I have.

9 BY MS. GREENE:

10 Q. What is it?

11 A. That looks like the IAB database printout of
12 Officer Narewski.

13 Q. This is a 41 page document, correct?

14 A. 41 pages of PDF, yes.

15 Q. Okay. I'm going to go through this document in
16 the same way that we've been doing. Here we are on the
17 eighth page of the document, at the bottom of the page
18 we have IAB number 200806-0242, an event from June 27th,
19 2008, correct?

20 A. Correct.

21 Q. And the disposition of this event was that the
22 allegation was sustained, correct?

23 A. That's correct.

24 Q. Do you know anything about the events giving
25 rise to this entry?

1 A. No, I do not.

2 Q. Do you know whether or not Narewski was
3 disciplined for the events giving rise to this entry?

4 A. No, I do not.

5 Q. Okay. And we see here at the bottom of this
6 page this heading, on page 16, use of force/chain of
7 command investigations, correct?

8 A. I believe that's the case, yes.

9 Q. So, the entries that follow this heading
10 pertained to use of force or chain of command
11 investigations?

12 A. Yes.

13 Q. Okay. So, continuing through the document.
14 Here we are on page 30, IAB number 200807-0156, an event
15 from July 16th, 2008, correct?

16 A. Yes.

17 Q. And whatever the conduct was there is deemed
18 outside of policy, right?

19 A. The disposition was outside of policy, correct.

20 Q. And because it falls under the category of use
21 of force/chain of command, presumably the events here
22 are associated with a use of force or chain of command
23 issue, right?

24 A. That is correct.

25 Q. And are you aware of the events giving rise to

1 **this entry?**

2 A. No, I'm not.

3 **Q. Are you aware of whether or not Narewski was**
4 **given discipline in relation to the events giving rise**
5 **to this entry?**

6 A. No, I'm not.

7 **Q. Okay. On this very last page we have an entry**
8 **that's IA160003881 for an incident on January 26th,**
9 **2015, right?**

10 A. Yes.

11 **Q. And the disposition was that the conduct was**
12 **deemed outside of policy, right?**

13 A. That's what it says there, yes.

14 **Q. Do you know anything about the events giving**
15 **rise to this entry?**

16 A. I do not.

17 **Q. Do you know if Narewski was disciplined for this**
18 **outside of policy finding?**

19 A. I do not.

20 **Q. Okay. And as we sit here, you don't know how**
21 **many of these events pertain to use of force events, do**
22 **you?**

23 A. I do not.

24 **Q. Or deadly force events?**

25 A. I do not.

1 Q. Or situations involving deceit or dishonesty?

2 A. I do not.

3 Q. And that's true as well for the document we
4 looked at for Baase, right? You don't know how many of
5 those are for use of force, deadly force, or deceit or
6 dishonesty, right?

7 A. Are you talking about sustained or any complaint
8 at all?

9 Q. Either/or. You don't know either way, do you?

10 A. Well, I would know if there was a deceit or
11 dishonesty sustained. I would know about that because
12 we would have requested termination for that particular
13 officer, so I would say none of those had sustained,
14 dishonesty, or untruthfulness.

15 Q. Okay. For Narewski, beyond what we've looked at
16 and discussed, can you please provide me with any
17 information or knowledge that you have about Narewski's
18 disciplinary history with the CDP?

19 A. All I have is what is right there provided.

20 Q. And Narewski has never received a negative
21 performance evaluation, correct?

22 A. I don't know the answer to that question.

23 Q. Okay. Let's talk about Bryan Mason now. What
24 do you know about the hiring process pertaining to
25 Mason?

1 A. We're going to hiring process?

2 Q. Yeah. I'm going to go back to that again for a
3 moment.

4 A. Okay. Let me find it. Okay. What's your
5 question?

6 Q. Explain to me the hiring process as it pertains
7 to Bryan Mason, and the events that occurred in his
8 hiring process.

9 A. So, he was assigned and presumably took the
10 civil service test in 2005, passed everything enough to
11 go on to our background process, and had a background
12 investigation conducted by Detective Randy Stonerock
13 starting on May 12th of 2006. So, how in depth do you
14 want this? I'll read everything, or what do you want?

15 Q. All right. At any point during the hiring
16 process was Mason deemed to have engaged in deceit or
17 dishonest conduct?

18 A. Let me take a look at the polygraph here. Would
19 you repeat that question, again?

20 Q. Sure. At any point in time during the hiring
21 process was Mason determined to have engaged in deceit
22 or dishonesty?

23 A. According to the polygraph there was no
24 deception indicated in his polygraph.

25 Q. You're looking at the polygraph summary, is that

1 right?

2 A. I am.

3 Q. I'm going to show you a document. Is this the
4 document that you're looking at?

5 A. Yes.

6 Q. I'm going to mark this as Exhibit 11.

7 - - - -

8 (Thereupon, Plaintiff's Exhibit 11 was marked for
9 identification.)

10 - - - -

11 A. I will say in reading the summary here, under
12 number 8 where it says, "criminal activity," and the
13 third or fourth paragraph, "While reading the questions
14 to be asked on the polygraph, he admitted he lied to the
15 examiner during the pretest interview."

16 Q. You're talking about the second page of my
17 Exhibit 11, correct?

18 A. Yes. The third paragraph down.

19 Q. States that he lied during the pretest interview
20 about masturbating in his car, and he also admitted
21 subsequently to masturbating at work apparently?

22 A. That's not dishonesty, but the admission of
23 lying was dishonest. The act is not dishonest.

24 Q. In spite of Mason lying during the pretest
25 interview, this Phil Osborne, who conducted this test,

1 **determined that Mason had not engaged in deception?**

2 A. So, the conclusion is that there was no
3 deception indicated in the polygraph. As you note here,
4 you go over the questions before they're asked on the
5 polygraph. He admitted that he lied during that
6 particular time before the polygraph was administered,
7 but he subsequently apparently told the truth during the
8 polygraph, so that the conclusion of the polygraph
9 results is that there was no deception indicated in
10 those questions during the actual polygraph.

11 **Q. Okay. Do you know whether, at any point in**
12 **time, Mason was removed from the hiring process because**
13 **of his acts of deception or dishonesty?**

14 A. He was removed, and let me take a look and see
15 why he was removed. He was removed because of a
16 criminal activity. Do you see that document?

17 **Q. I'm going to show you a document, and please**
18 **tell me if it's the same thing that you're referencing.**
19 **This document titled memorandum dated March 20th, 2006,**
20 **subject, background Removal of Police Officer Applicant,**
21 **Bryan Mason. This is what you're looking at, right?**

22 A. Yeah. So, he was removed based on that, yeah.

23 **Q. We're going to mark this as Exhibit 12.**

24 - - - -

25 (Thereupon, Plaintiff's Exhibit 12 was marked for

1 identification.)

2 - - - -

3 BY MS. GREENE:

4 Q. So, Mason was removed from the hiring process
5 according to this document?

6 A. Yes.

7 Q. So, what does that mean, background removal?

8 A. So, he's removed from the list. The civil
9 service rules are pretty clear. You could see the two
10 sections that they reference in the civil service rules.
11 So, he was no longer being processed to be a police
12 officer because he was removed from that list within
13 those time limits.

14 Q. And ultimately Mason became an officer for the
15 CDP, though, correct?

16 A. Yes, did he.

17 Q. So, how did that happen in spite of his criminal
18 history?

19 A. Well, let's take a look at the removal standards
20 by civil service. And if you look at G1, and G4, it
21 talks about anything that occurs as an adult within the
22 past five years, or anything that would be defined as a
23 felony where this jurisdiction occurred.

24 Q. Hang tight for a second. I want to share with
25 you a document and probably mark it. Is this the

1 document that you're referencing right now?

2 A. Yes. The civil service rules.

3 Q. And so, you're saying that according to this
4 section G, somehow he can be reinstated for eligibility,
5 is that right?

6 A. Yes. Everybody can. It's not just him
7 specifically. There are time limits.

8 Q. How does that work?

9 A. So, for example, if you committed this crime
10 before, five years before in the timeline -- so actually
11 I think there's another letter, notice of removal, that
12 we might want to take a look at that might be
13 informative dated March the 21st. Anyway, civil service
14 guidelines indicate that certain action will time out.
15 So, if you committed a crime of theft within five years
16 of application period, you're removed from the list. If
17 it's in excess of five years, then you can be left on
18 the list.

19 Q. Okay. Looking at this document on the first
20 page, and I'm going to mark this civil service rules
21 document **Exhibit 13**. Okay?

22 - - - -

23 (Thereupon, Plaintiff's **Exhibit 13** was marked for
24 identification.)

25 - - - -

1 A. Okay.

2 BY MS. GREENE:

3 Q. I see here in section A, that any stage of the
4 investigation process, if the applicant fails to
5 disclose or acknowledges any disqualifying behavior
6 activity as an adult, then that would also be grounds
7 for removal, right?

8 A. Correct.

9 Q. So, would Mason's, you know, false answers about
10 the questions in the pretest interview qualify as this
11 particular ground for removal pursuant to section A on
12 honest and fabrication?

13 A. I don't believe so, because ultimately he did
14 disclose that. I don't believe that would be
15 applicable in this particular instance.

16 Q. Okay. All right. Do you recognize the document
17 that you see here?

18 A. Yes.

19 Q. What is this?

20 A. This is a notice of removal from the civil
21 service commission in regards to Officer Bryan Mason,
22 looks like civil service rule, is it 4?

23 Q. It looks like VI(E)I section (p), right?

24 A. That's what it looks like. And then, directions
25 on how he can appeal.

1 Q. Okay. We're going to mark this as Exhibit 14.

2 - - - -

3 (Thereupon, Plaintiff's Exhibit 14 was marked for
4 identification.)

5 - - - -

6 BY MS. GREENE:

7 Q. This is the letter sent to Mason indicating that
8 he was being removed from the list, correct?

9 A. Yes. One of them, yes.

10 Q. And this letter states he was removed due to
11 rule VI(E)(1)(p), and it includes a quote from that
12 section of the rule, right?

13 A. Yes.

14 Q. And all that this says is that if you do
15 something that violates the provisions of the background
16 removal standards, that's the reason for his removal,
17 right?

18 A. Right. It's not a well-written letter.

19 Q. Does this indicate to you the basis for his
20 removal?

21 A. It does not.

22 Q. Okay. I'm going to close this one, and I'm
23 going to show you another document. Have you seen this
24 document before?

25 A. Yes. I'm looking at it right now.

1 Q. Okay. And what is this?

2 A. So, apparently Bryan Mason filed an appeal to
3 that decision, and the civil service commission
4 determined that his appeal should be granted.

5 Q. Do you know whether any Police Union was
6 involved in this appeal?

7 A. Police Union?

8 Q. Yeah.

9 A. No. I don't know that. But they're not part of
10 the bargaining unit, so I don't know how they could be.

11 Q. If they were involved that would be a strange
12 turn of events in your experience?

13 A. Yes. Very. There's no standing for the Union
14 to represent someone who is not an employee.

15 Q. Okay. Now, this is an April 20th, 2006 letter
16 that we're talking about right now, correct?

17 A. Yes.

18 Q. I'm going to mark this as Exhibit 15.

19 - - - -

20 (Thereupon, Plaintiff's Exhibit 15 was marked for
21 identification.)

22 - - - -

23 BY MS. GREENE:

24 Q. This letter doesn't do anything to indicate to
25 us what the issue giving rise to removal in that

1 **reinstatement to enlist was, right?**

2 A. Correct.

3 **Q. Okay. As we sit here today, and in your**
4 **experience, which we've talked a fair amount about over**
5 **the course of this deposition, does lying during a**
6 **pretest interview give rise to any concerns about a**
7 **future for an aspiring officer's honesty or dishonesty?**

8 A. Ma'am, are you talking about my standards and
9 the way I do my reviews today? Because I can't speak to
10 how someone did the review back in 2006.

11 **Q. Sure. Let's talk about your perspective sitting**
12 **here today with your experience.**

13 A. Okay. Please ask that question again, then.

14 **Q. Sure. Lying during a pretest interview during a**
15 **hiring process, does that give rise to any concerns**
16 **regarding an aspiring officer's honesty or dishonesty?**

17 A. It does, depending on the context of the
18 dishonesty, yes.

19 **Q. Explain that to me more. What do you mean**
20 **"depending on the context?"**

21 A. Well, lying about being arrested. Lying about
22 applying for other jobs. Lying about committing a
23 theft, or in this case, lying about masturbating as
24 you're driving down the road. I see that as a little
25 different. Lying about cheating on your wife. There's

1 certain things about when ultimately confronted, they
2 say, well, yeah, I did this. There's things in life
3 that are embarrassing too, so I will say all lies are
4 not created equal.

5 **Q. Okay. So, the subject of the lie is important**
6 **in your perspective for determining whether or not the**
7 **capacity of the lie?**

8 A. The context of the lie, yes. Absolutely.

9 **Q. Do you think that other supervisors share your**
10 **perspective?**

11 A. I think all humans share that perspective,
12 ma'am. When someone says, "hey, do these jeans make me
13 look fat?" Are you going to say the jeans make you look
14 fat, or you make you look fat. There's context to what
15 a lie is. In this particular case, lying about
16 masturbating driving down the road, I have more problem
17 with him masturbating driving down the road than about
18 lying about it. And that would create a problem for me
19 as an evaluator on his viability of being a police
20 officer is that, not lying to cover-up that embarrassing
21 activity. It's the activity that became problematic to
22 me.

23 **Q. So, the activity itself is problematic in your**
24 **eyes, right?**

25 A. Correct.

1 Q. But, you don't think that directly lying to a
2 person conducting an interview for the purposes of
3 potentially hiring you as an officer is problematic,
4 even if it's a less important lie?

5 A. Ma'am, I already answered that question once.
6 And I will tell you again, that all lies are not created
7 equal. That's correct.

8 Q. All right. Well, given these issues with Mason,
9 his lies to the interviewer, masturbating out on public
10 roads, and also his criminal history, which were all
11 lying through the hiring process, once he was hired as
12 an officer, was there any plan or supervision mechanism
13 put in place to observe him as an officer to ensure that
14 his past conduct was not also creating problems as a
15 current officer?

16 A. Are you talking about over and above every other
17 newly hired trained recruit?

18 Q. Yes.

19 A. I cannot answer that question having not been
20 there, but I would have a hard time believing that he
21 would be the only recruit that has some minor blemish in
22 their history. We hire humans. Humans are not perfect.
23 Humans make mistakes. So, to answer your question, no,
24 I do not have knowledge that they used this background
25 investigation during the hiring process to create a plan

1 of action once he was hired.

2 Q. Okay. I would like to share another document
3 with you at this point in time. Do you see the document
4 on the screen?

5 A. Yes.

6 Q. We're going to go through this one like the
7 rest. What is this document?

8 A. Let me get my copy too, so I can see it better.
9 I think I have it, but it's got a redaction on the wrong
10 side. I think it's the same document.

11 Q. Okay.

12 A. Mine is only six pages.

13 Q. Okay. How about I zoom in on this one and we'll
14 go through it so you can see it.

15 A. Yes. That will help.

16 Q. Okay. Can you see if I zoom in?

17 A. Yes. That's great. Thank you.

18 Q. Let's mark this one as **Exhibit 16**.

19 - - - -

20 (Thereupon, Plaintiff's **Exhibit 16** was marked for
21 identification.)

22 - - - -

23 BY MS. GREENE:

24 Q. This is Bryan Mason's IAB history printout,
25 right?

1 A. Yes.

2 Q. Okay. I'm going to scroll through here on this
3 first entry, we have an entry relating to the shooting
4 of Tyree King as September 14th, 2016, right?

5 A. Yes.

6 Q. And the point in time that this document was
7 created this disposition was pending?

8 A. I don't believe that's accurate. I don't know
9 exactly when this is created, but I think that
10 disposition has been in place for a while now.

11 Q. What was the disposition, if you know?

12 A. I'm pretty sure that was not a violation of our
13 policy.

14 Q. Was Mason disciplined for the shooting of Tyree
15 King?

16 A. No. If it was within policy he would not be
17 disciplined.

18 Q. Okay. We're going to continue on through the
19 document. Here on the fourth page of the document we
20 have incident number 201304-0153 with the disposition of
21 sustained, do you see that?

22 A. I do.

23 Q. For an event on April 18th, 2013, correct?

24 A. Yes.

25 Q. And I'm going to scroll down to include the box

1 beneath it, because like we determined in the last
2 documents it's associated with the box above, right?

3 A. Right.

4 Q. Okay. Do you know any of the events giving rise
5 to this entry?

6 A. I do not.

7 Q. Do you know whether or not Mason was disciplined
8 for these events?

9 A. I do not.

10 Q. Okay. So, here we have an event on the ninth
11 page, incident 200804-0097 from December 11th, 2007,
12 right?

13 A. Yes.

14 Q. A disposition of outside of policy, correct?

15 A. That's what it says, yes.

16 Q. Do you know what the events giving rise to this
17 entry were?

18 A. No, I do not.

19 Q. Do you know whether or not Mason was disciplined
20 for these events?

21 A. No, I do not.

22 Q. As we're scrolling through we're looking at a
23 large number of entries in this IAB history, right?

24 A. There's a lot of entries, yes.

25 Q. Now I'm on page 39, and we have an event for

1 December 11th, 2007, right?

2 A. Is that not the same one that you asked me about
3 earlier?

4 Q. Well, I was going to ask you about that, if you
5 would be able to tell me. I happen to have those
6 entries open now. They're both listed at December
7 11th, 2007 at 4:50 p.m. And to be clear, we're on page
8 39, but I'm also talking about an event on page nine of
9 this document. They have the same complainant, Patrick
10 Shaffer, though the allegation seems possibly different.
11 Here on page 39 we have violation of police records,
12 orders, etc., right?

13 A. Correct.

14 Q. And in the prior entry we looked at, the action
15 was -- strike that. It says, "Violation of Police
16 Rules, Orders, and Etc." So I'm assuming this is the
17 same as the one we already looked at then. Is that
18 fair?

19 A. Is the IAB number the same?

20 Q. Indeed it is. 200804-0097.

21 A. Then, yes. They're going to be the same.

22 Q. Okay. Let's continue.

23 A. So, this long list may be long because of
24 redundancy.

25 Q. Maybe.

1 A. If you notice, there's actually two different
2 formats there. It could be from when we switched over
3 databases. You may have redundant entries from two
4 different databases.

5 **Q. In either case, it's longer than the version**
6 **that you have, right?**

7 A. Yes. It's definitely longer than the version
8 that I have.

9 **Q. Okay. Here's an event on page 60, February 2nd,**
10 **2013 IAB 201302-0002. Do you see this here?**

11 A. I do.

12 **Q. And it says this event involved a firearm use,**
13 **use of force, and the disposition is pending, correct?**

14 A. Yes, it does.

15 **Q. Do you know anything about the events giving**
16 **rise to this entry?**

17 A. I do not.

18 **Q. Do you know what the disposition is for this**
19 **February 2nd 2013 use of force event?**

20 A. I do not.

21 **Q. Do you know whether or not Mason was disciplined**
22 **for this event?**

23 A. It's pending, so I would not know if discipline
24 was warranted.

25 **Q. And you don't know ultimately, beyond what's in**

1 **this document, whether or not he was disciplined for it?**

2 A. Correct. I don't know anything beyond what's in
3 that document for that.

4 Q. Okay. We're now on page 63 in the middle of the
5 page, IAB 201304-0153. And I believe this is also the
6 same event that we talked about earlier on page four of
7 this document for an April 17th, 2013, the sustained
8 allegation, correct?

9 A. It appears to be redundant, yes.

10 Q. All right. We've reached the end of that
11 document. As we sit here, do you know of any other
12 events that gave rise to discipline for Officer Mason?

13 A. No, I do not.

14 Q. And as we sit here, you don't know whether any
15 of these entries involved allegations of deceit or
16 dishonesty by Mason, do you?

17 A. As I noted before, if they were sustained
18 allegations of dishonesty or untruthfulness, it would
19 have resulted in departmental charges, and I don't have
20 any recollection of him having departmental charges on
21 those.

22 Q. Any use of force incident that resulted in any
23 kind of internal investigation should be listed in a
24 police officer's IAB history, right?

25 A. Not necessarily, because there are retention

1 schedules for records. So there may be things that are
2 beyond the records retention schedule that would not
3 necessarily be in a database or anywhere.

4 **Q. Okay. So, if we wanted to have a comprehensive**
5 **list of an officer's use of force incidents that**
6 **resulted in an investigation by the department of any**
7 **kind, how or where would we find them?**

8 A. The Ohio Historical Society has pretty strict
9 guidelines of the destruction of public records of any
10 kind, so I don't know what that would exhibit.

11 **Q. You're saying that you don't think that would**
12 **exist based on?**

13 A. From what you're asking, a list of everything
14 from the beginning of history to today, because of a
15 public records retention law and destruction policies
16 and laws that wouldn't exist.

17 **Q. So, for any given officer employed by the**
18 **Columbus Division of Police?**

19 A. So, if that officer were only employed within
20 the limits of what the public records law indicates,
21 then, yes, you would have that, and that would be
22 Internal Affairs. But, if it extents past what's a
23 public record and the retention schedule then, you would
24 not have it.

25 **Q. And the division of police doesn't retain that**

1 **information for its own evaluative or supervision**
2 **purposes beyond that retention schedule for public**
3 **records?**

4 A. We don't retain anything that would be a
5 violation of law. That's correct.

6 **Q. It would be a violation of law to retain**
7 **documents longer than the required retention schedule?**

8 A. If there's a destruction schedule, then we
9 follow that schedule, and follow the law. If there's an
10 agreement and a collective bargaining agreement, we also
11 follow that agreement. We would not violate either of
12 those two for the purpose of retention for knowledge.

13 **Q. Okay. Bryan Mason has been involved in four use**
14 **of deadly force events, correct?**

15 A. I don't know the answer to that question. I
16 don't know exactly how many he's been involved in, no.

17 **Q. Okay. So, you're not aware of the fact that**
18 **Mason engaged in the use of deadly force four times in**
19 **the span of six years?**

20 A. I did not know the exact number. You may be
21 right. I'm sorry. I don't keep track of that, but
22 that's very possible.

23 **Q. What do you know about Mason's history of use of**
24 **deadly force?**

25 A. I know one in particular where he had an

1 unfortunate encounter with someone with a pistol who
2 committed a robbery, and it turned out to be a toy
3 pistol. We also know that Officer Mason was
4 administratively reassigned to a non-patrol assignment
5 for his protection and also the protection of the
6 community. That's pretty much all I know.

7 **Q. For his protection, what do you mean?**

8 A. Certainly he's been involved in many critical
9 incidents, and his name was out there on a regular
10 basis, and what we didn't want was for someone who may
11 have something against Officer Mason to goat him, or
12 confront him into a violent encounter. We wanted to
13 reduce that as much as possible, to get him out of that
14 possibility of being in another violent encounter.

15 **Q. Was that because Mason is viewed as an officer**
16 **with a propensity to be goated into a violent encounter**
17 **by people?**

18 A. No, ma'am. That's not what I said at all. We
19 just wanted to make sure that we protect this officer
20 from being involved in another violent encounter. If
21 the number four that you said is correct, that's an
22 amount that's larger than other officers are involved
23 in. So why would we put him in a position where he
24 might be forced to be in another one. So, we did what
25 we thought was correct, and I believe it's still correct

1 to this day is to remove him or reduce the opportunities
2 to him to be in a violent encounter.

3 Q. If that number of shootings is more than most
4 other officers, did that give rise at any point to any
5 supervisory assessment of Mason in whether he was
6 equipped, or fit for duty, and to carry a weapon?

7 A. Well, as we talked about before, and we have
8 documentation of, he did have at least one documented
9 conversation with a psychiatrist or psychologist who
10 determined that he was able to come back to duty.

11 Q. Would that be the extent of the division's
12 assessment of the cumulative effect of these shootings
13 in relation to Mason's fitness to be a police officer?

14 A. So are you asking about his mental health?
15 Because we're not mental health professionals. That's
16 what we depend on the mental health professionals for.

17 Q. I was asking about whether these four shootings
18 gave rise to any evaluation about whether or not he
19 should continue to be an officer for the division. And
20 you responded saying, well, that he had a psych eval
21 after the shooting of Tyree King, the one that we
22 already talked about. What I'm asking you, is there
23 anything beyond that psych eval in 2016 that the
24 division has engaged in to assess whether or not Mason
25 should continue in his employment as a police officer

1 **given these multiple deadly force events?**

2 A. Every use of force, whether it be deadly use of
3 force, or any other use of force, is evaluated on their
4 own merit and independently. If there was an indication
5 on any of those investigations that some further action
6 should have been taken, then it would have been. I
7 don't remember the other incidents and having read those
8 investigations. Maybe I did, but I do read a lot.
9 Every incident has to be considered on their own merit.
10 So, if you're asking if we put a hard-line on you can
11 only have X number of uses of force then we're going to
12 terminate you, no, we don't have that.

13 **Q. When evaluating an officer after a use of deadly**
14 **force is it part of the evaluation concerning his**
15 **ongoing employment to look at prior uses of deadly force**
16 **and to look at the totality or accumulative information**
17 **to be gleamed from that array of deadly force events?**

18 A. Every use of force is evaluated. So, we have a
19 historical look through EARS. I hope that answers your
20 question. I'm not sure exactly what you're getting at,
21 but we evaluate every single use of force to include
22 deadly force, to ensure that what these officers did was
23 within our policy, within our guidelines. Any deadly
24 use of force is evaluated by the Grand Jury. So we,
25 again, do not have a hard and fast number to say if

1 you're involved in this number of deadly forces, you can
2 no longer be a police officer. I'm not sure that would
3 stand up to constitutional muster either. We don't have
4 that number.

5 **Q. That's not what I'm asking. I'm asking, does it**
6 **raise red flags that an officer was involved in four**
7 **deadly force events in six years?**

8 A. Ma'am, we, again, evaluate every single use of
9 force.

10 **Q. Yes or no, does it raise red flags?**

11 A. I'm not answering that question. I'm sorry. I
12 don't know what a red flag is for you.

13 **Q. What do you understand the term red flag to**
14 **mean?**

15 A. If you would repeat the question I would be
16 happy to answer it.

17 **Q. Is it a cause for concern in your perspective as**
18 **a Columbus Division of Police Deputy Chief that an**
19 **officer engaged in deadly force four times in six years?**

20 A. Not necessarily.

21 **Q. Why not?**

22 A. Because every situation is different. So, as we
23 look at the situation, in reading the investigation, in
24 determining whether or not there was a problem with the
25 actions taken by the officer in that particular

1 incident, then that would create a red flag. A number,
2 just a number, does not create a red flag that you're
3 talking about, cause a concern. The concern is based on
4 the specific incident at hand.

5 **Q. The number of deadly force events that Mason has**
6 **been involved in constitute an outlier in the grand**
7 **scheme of officers in the division, is that right?**

8 A. That number is higher. If the number four is
9 accurate that you provided earlier, that number is
10 higher than most other officers that I know, yes.

11 **Q. And as a person here to testify about**
12 **supervision, did that number in that span of time ever**
13 **give rise to any increased scrutiny or supervision about**
14 **Mason and his execution of his duties as a police**
15 **officer?**

16 A. Ma'am, I can't answer the question about other
17 supervisors. You would have to ask them.

18 **Q. You're here to testify about the supervision of**
19 **Mason. So, I'm asking you.**

20 A. I'm happy to answer the questions that I can
21 answer. I wouldn't speculate about what others have
22 done. But again, I'll answer this question yet again.
23 Each and every incident is its own incident and there's
24 not a magic number that says once you get to that number
25 you can no longer be a police officer. We read every

1 investigation, completely and thoroughly, and look for
2 any indicator there whether there was a problem. Did
3 they act outside policy? Were they acting lawfully?
4 Did they act reasonable in every single incident? The
5 number is not near as important as the incident and the
6 reasonableness of the actions in the incident in itself.

7 **Q. So, the CDP assesses the individual incidents**
8 **without considering other incidents that may have**
9 **occurred?**

10 A. Repeat that.

11 **Q. The CDP accesses use of deadly force incidents**
12 **without respect to other deadly force incidents that an**
13 **officer has been involved in, correct?**

14 A. We do not combine investigations of two separate
15 incidents. If that's your question, that's the answer.
16 We do not combine incidents to evaluate whether this new
17 incident is within the policy, reasonable, or lawful.

18 **Q. Okay. Mason was never disciplined for any of**
19 **his use of deadly force events, correct?**

20 A. I know of one specifically where his actions
21 were within policy, so I don't have any knowledge that
22 he was found outside of policy on any deadly use of
23 force. And if he was not outside of policy he would not
24 be disciplined.

25 **Q. Okay. And he was not disciplined, but instead**

1 he was moved to narcotics after his fourth shooting,
2 correct?

3 A. I don't know if that's exactly where he went
4 after that. Maybe he was. I know he was moved out of
5 patrol, but I don't know specifically where he went from
6 there. I could probably tell you.

7 Q. So, narcotic assignments are assignments that a
8 lot of officer aspire to, right?

9 A. Yes. Many people would like to have those
10 assignments.

11 Q. Did you hear about any other officers being
12 upset about Mason being moved to narcotics after this
13 shooting because it was such a popular post?

14 A. I didn't hear from officers, but there
15 definitely was conversation about him going to that
16 assignment in executive staff, yes.

17 Q. What was the conversation about him going to
18 that assignment in executive staff?

19 A. There were some that were, as myself, I wasn't
20 excited about that decision, because it's a position
21 that usually somebody with seniority gets, and I did not
22 want a perception to be that there was an award or a
23 punishment for a certain number of violent encounters.

24 Q. What would have been a more appropriate move for
25 him in your opinion?

1 A. Well, I'm not sure exactly the more appropriate
2 move. Maybe an investigative position, investigative
3 property crime or something like that probably would
4 have been more appropriate in my estimation. But,
5 again, I understand the merits of the decisions that
6 were made, but sometimes we disagree.

7 **Q. And who ultimately made that decision?**

8 A. That would have been the chief of police at the
9 time, Kim Jacobs.

10 **Q. Okay. And do you know who else in that chain of**
11 **command advocated for that solution?**

12 A. I do not right offhand.

13 **Q. Do you know whether Mason was ever flagged by**
14 **the EARS system?**

15 A. I do not. That's a really good question. I can
16 do some research on that. There are two levels of EARS
17 alerts. One is a review. If you reach a certain
18 threshold, we're going to review those uses. And then,
19 if there's any commonalities or problems identified in
20 those uses, then they're referred for an action plan
21 from their chain of command.

22 **Q. And you don't know as you sit here whether or**
23 **not Mason was ever flagged by that system?**

24 A. No, I don't. Sorry. EARS is not considered
25 discipline.

1 Q. Okay. Do you have any other knowledge of any
2 other discipline for Mason for the duration of his time
3 as a CDP officer that we have not discussed so far?

4 A. I do not.

5 Q. And Mason has never received a negative
6 performance evaluation, correct?

7 A. I don't know the answer to that question.

8 Q. Okay. With regard to the disciplinary history
9 that we've discussed today for Abel, Baase, Narewski,
10 and Mason, you did not bring, other than the IAB
11 histories, any relevant documents with you to the
12 deposition, correct?

13 A. I brought all the available documents that were
14 provided, yes.

15 Q. And those were the documents provided by the
16 city lawyers?

17 A. Correct.

18 Q. And you didn't undertake any additional search
19 for any other relevant documents?

20 A. No, I did not.

21 Q. Why not?

22 A. Because those were the documents that were
23 available.

24 Q. Well, you have access to all the documents in
25 the division of police pertaining to these officers'

1 **supervision and discipline, correct?**

2 A. So, all of the documents that are available were
3 provided to our attorneys.

4 Q. And if you looked at those documents and
5 determined there were things that you couldn't answer or
6 didn't know enough about based on what the city's
7 attorneys provided to you, you did have the ability to
8 get more documents that would answer the questions,
9 right?

10 A. No. Because most of those that you referenced
11 were beyond the records retention. Discipline and
12 investigations are destroyed based on records retention.
13 So, what you were asking for from 2003 would not be
14 there anymore because that's been destroyed.

15 Q. Documents from 2012, 2013, '14, '15, those would
16 have been available, right?

17 A. Depending on what the documents were and whether
18 there was disciplines involved or not.

19 Q. How far back would the documents that you have
20 had access have gone, to what year?

21 A. So, if it resulted in departmental charges it
22 would go back as far as six years, and documents that
23 are discipline that result in a DCC, they're only
24 retained for two.

25 Q. What's a DCC?

1 A. A documented constructive counselling.

2 Q. And so, for example, if a police involved
3 shooting from 2010 came up in our conversation today,
4 you're telling me that no documents concerning that
5 event would be available?

6 A. That's a criminal investigation, so that's
7 completely different. A police involved shooting is a
8 criminal investigation. So criminal investigations are
9 maintained for a longer period of time.

10 Q. And so, for any of the events that we discussed
11 that were subject to criminal investigations, you did
12 not attempt to obtain those documents, did you?

13 MS. DEAN: Objection. That would be
14 out of scope, I think, because if it didn't result in
15 discipline, then it wasn't part of what was requested in
16 numbers three and four.

17 BY MS. GREENE:

18 Q. An allegation that an officer is engaged in a
19 criminal act would constitute information that would and
20 should be used to the supervisory process, correct?

21 A. It says, "in supervision of." It doesn't talk
22 about the supervisor process of, so I would disagree.

23 Q. Okay. So, the supervision of an officer would
24 and should include the incorporation and consideration
25 of information about criminal acts that the officer has

1 **alleged to have committed, correct?**

2 A. Yes. And those are police involved shootings.
3 Those are investigated as criminal acts. Yes.

4 **Q. Okay.**

5 A. Did you need more information about the police
6 involved shootings?

7 **Q. I've asked about the discipline and supervision**
8 **in relation to those shootings, and all I've heard from**
9 **you all day is that you don't know. So I'm asking you**
10 **now, is there anything -- did you attempt to obtain any**
11 **documents that would have aided you in answering these**
12 **questions regarding the supervision and discipline of**
13 **Mason for the duration of his employment as a CDP**
14 **officer?**

15 A. I did not, nor did I need to get any of the
16 additional documents to answer your additional questions
17 on three and four.

18 **Q. Well, that's incorrect, but neither here nor**
19 **there.**

20 A. You're allowed to be wrong.

21 MS. GREENE: Okay. We're done. I'm
22 sure you'll advise him to read.

23 MS. DEAN: We'll review the
24 transcript.

25

C E R T I F I C A T E

STATE OF OHIO,)
)
CUYAHOGA COUNTY.)

I, Megan A. Medved, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, DEPUTY CHIEF RICHARD BASH, was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the witness was by me reduced to Stenotype in the presence of said witness, afterwards transcribed upon a computer; and that the foregoing is a true and correct transcription of the testimony so given by the witness as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified, and was completed without adjournment.

I do further certify that I am not a relative, employee of or attorney for any of the parties in the above-captioned action; I am not a relative or employee of an attorney of any of the parties in the above-captioned action; I am not financially interested in the action; and I am not, nor is the court reporting

1 firm with which I am affiliated, under a contract as
2 defined in Civil Rule 28(D).

3
4 IN WITNESS HEREOF, I have hereunto set my hand and
5 affixed my seal of office at Cleveland, Ohio on January
6 29th, 2021.

7
8
9 *Megan Medved*

10
11 Megan A. Medved, a Notary Public

12 in and for the State of Ohio.

13 My Commission expires 9/17/23
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